

AL 13-000-6212

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ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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June 6, 2013

The Honorable Robert Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator Perciasepe:

Thank you for appearing before the Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy on Thursday, May 16, 2013, to testify at the hearing entitled "The Fiscal Year 2014 Environmental Protection Agency Budget."

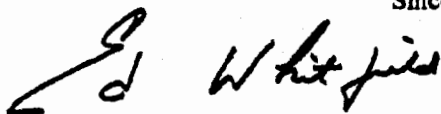
Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

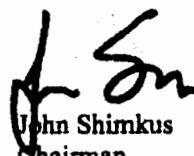
To facilitate the printing of the hearing record, please respond to these questions and requests by the close of business on Thursday, June 19, 2013. Your responses should be e-mailed to the Legislative Clerk in Word format at Nick.Abraham@mail.house.gov and mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittees.

Sincerely,



Ed Whitfield
Chairman
Subcommittee on Energy and Power



John Shimkus
Chairman
Subcommittee on Environment
and the Economy

cc: The Honorable Bobby L. Rush, Ranking Member, Subcommittee on Energy and Power
The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachments

Attachment 1—Member Requests for the Record

During the hearing, Members asked you to provide additional information for the record and you indicated that you would provide that information. For your convenience, descriptions of the requested information based on the relevant excerpts from the hearing transcript regarding these requests are provided below.

The Honorable Tim Murphy

1. With respect to EPA and FOIA fee waiver requests, I hope you will submit for the record the value of FOIA fees waived by EPA.

The Honorable Michael C. Burgess

1. Lisa Jackson went to the United Nations Conference on Sustainable Development, referred to as Rio+ 20. How much did we spend to send Lisa Jackson to Rio 20?

The Honorable Bill Cassidy

1. In October of 2011 the EPA Office of Underground Storage Tanks announced a proposed revision to the 1988 Federal Underground Storage Tank regulation, and industry stakeholders along with the Petroleum Marketers Association of America submitted comments. EPA estimated the compliance costs to be about \$900 per year per facility while the petroleum marketers and others estimate true costs to be \$6,100 per year. Now, of course, this concerns them, and they are requesting that the EPA withdraw the proposed rule, which is to be finalized in October of 2013, this year, and form a small business regulatory advisory panel to determine the true compliance costs. They tell me a letter was received from EPA, and the letter did not agree to the regulatory advisory panel. What are the true compliance costs? Is EPA reluctant to form an advisory or other committee to determine the true compliance costs?

The Honorable H. Morgan Griffith

1. In the case of the Clean Air Act, for consent decrees there is a statutory opportunity to comment before they are entered by the court. Does opportunity for public comment ever result in changes to a settlement? We are aware of only one instance involving technology and residual risk reviews for various sources where that has occurred. Can you get that information?

The Honorable John D. Dingell

1. I see that the President's fiscal year 2014 budget request for CERCLA or Superfund is \$33 million less than for fiscal year 2012. Can CERCLA continue to fulfill its duties and its current cleanup responsibilities and obligations without slowing down significantly because of this reduction in funding? Would you submit some additional information on that issue, please, so that we may evaluate that more adequately?

Attachment 2—Additional Questions for the Record

The Honorable Ed Whitfield

1. Concerns have recently been raised that the EPA has engaged in a pattern of granting Freedom of Information Act (FOIA) fee waivers to environmental groups while denying fee waivers to conservative groups, and we understand that you have contacted the agency's Inspector General regarding conducting a programmatic audit to address these concerns.
 - a. What is the status of this audit?
 - b. What will be the scope of the audit?
 - c. When will the audit be completed?
2. A FOIA-related situation has recently come to my attention that raises questions about whether the EPA may employ a similar practice when it comes to granting timely access to public records under the FOIA process. A case in point has arisen out of Louisiana, where an advocacy group, the Louisiana Bucket Brigade (LABB), was able to gain access, through FOIA, to an EPA draft RMP inspection report of the Baton Rouge Refining Facility, within 16 days of its original FOIA request of Dec. 14, 2012 (Tracking Number : EPA-R6-2013-002185). Conversely, an industry trade association, the Louisiana Mid-Continent Oil & Gas Association (LMOGA) submitted a FOIA request (Tracking Number : EPA-R6-2013-005253) on April 8, 2013, for information related to the fulfilling of LABB's Dec. 14, 2012, FOIA request, yet as of May 20, 2013 – 42 days later – its request has not yet been answered.
 - a. Given the concerns that have been raised about potential bias when it comes to FOIA fee waivers, can the EPA say with certainty that when it comes to the timeliness of processing FOIA requests that there is not a bias in favor of environmental groups over industry organizations, state or local governments?
 - b. Will EPA include a review of FOIA response times in the agency's upcoming audit of its FOIA fee-waiver practices?
 - c. What protocols does the Agency currently have in place for monitoring and ensuring adequate FOIA response times in accordance with FOIA and case law?
 - d. Is the EPA aware of any instances in which it has answered a FOIA request through the unofficial sharing of relevant documents and information in lieu of formally releasing the requested information via a publically accessible database?
3. With respect to the Clean Air Act's regional haze provisions, does EPA agree that the Clean Air Act as written and as amended gives the states, rather than the federal government and the EPA, primacy over visibility and regional haze standards? If not, please explain.
4. EPA has proposed a regional haze regulation for the Navajo Generating Station that could require an investment of more than \$1 billion with potentially no perceptible visibility improvements. In particular, a study done by the Department of Energy's National Renewable Energy Laboratory (NREL) last year concluded: "The body of research to date is inconclusive as to whether removing approximately two-thirds of the current NOx emissions from Navajo Generating Station would lead to any perceptible improvement in visibility at the Grand Canyon and other areas of concern." Does EPA reject the NREL's conclusion? If yes, please explain the basis for rejecting this conclusion.

5. The Navajo Generating Station plant is critical to the Arizona economy and jobs, and to the Central Arizona Water Project. In the proposed rule, EPA itself states that "the importance to tribes of continued operation of NGS and affordable water costs cannot be overemphasized." Is it reasonable for EPA to propose requiring the owners to spend hundreds of millions of dollars, or possibly over \$1 billion, for potentially no perceptible visibility improvements? Can EPA commit that the agency will not finalize a rule that effectively forces the facility to shut down all or a significant part of its operations?
6. Under the Montreal Protocol and Title VI of the Clean Air Act, EPA has been phasing out the consumption and production of hydrochlorofluorocarbons (HCFCs). What is EPA's timetable for proposing and promulgating rules governing HCFC allowances for the period of 2015-2019? What steps is EPA taking to ensure that the proposed rule can be completed well enough in advance of 2015 so that companies and industries can plan and operate their businesses accordingly?
7. During the FY 2014 budget hearing before the Interior Appropriations Subcommittee, you were asked about EPA's proposed order revoking the food uses for sulfuryl fluoride. As you are aware, EPA had strongly encouraged the agricultural and food production sectors to transition to sulfuryl fluoride as a substitute for methyl bromide. In your testimony, you stated that EPA is "sympathetic to the problem" created by the proposed order and acknowledged the pending legislation that would direct EPA to withdraw it. You also testified that "sulfuryl fluoride is a pretty important fumigant," "a good replacement" for methyl bromide, and an "important tool." Does this mean that EPA is willing to work with Congress to provide certainty to the agricultural and food production sectors that they will be able to continue using sulfuryl fluoride to protect America's food supply from dangerous and destructive pest infestations?
8. EPA publishes hundreds of final rules each year in the Federal Register. Does EPA track the number of rules it issues each year? If yes, please provide the number of final rules published for each of the following years: 2009, 2010, 2011 and 2012.
9. Does EPA track the total new compliance costs of the rules it issues each year? If yes, please provide the estimated total compliance costs for EPA rules published in 2009, 2010, 2011 and 2012.
10. Section 321(a) of the Clean Air Act requires the EPA "conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this Act and app
11. licable implementation plans, including where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement."
 - a. Has EPA ever conducted a study or evaluation under Section 321(a)? If yes, please describe each study or evaluation, when it was conducted, and the results of the study or evaluation.
 - b. Has EPA ever investigated a threatened plant closure or reduction in employment allegedly resulting from administration or enforcement of the Clean Air Act? If yes, please describe each such investigation, when it was conducted, and the results of the investigation.
12. In its 2010 proposed ozone rule, EPA estimated that the costs to the American manufacturing, agriculture and other sectors could reach \$90 billion per year. Many have raised concerns that with such costly rules we are driving manufacturing and agricultural production out of the U.S. to other countries with lax environmental standards.
 - a. In analyzing these regulations, does EPA consider the economic and environmental effects of driving manufacturing offshore to countries with little or no environmental controls?

- b. If yes, please explain. If not, why not?
13. When President Obama announced Executive Order 13563 in 2011, he promised "to remove outdated regulations that stifle job creation and make our economy less competitive." However, based on review of EPA's most recent retrospective review of regulations, it appears EPA has only completed review of 13 regulations. Most of the revisions appear to be minor, and one of the revisions actually increases regulation.
 - a. How many regulations has EPA reviewed as part of this process?
 - b. Is the agency continuing to take steps to eliminate outdated or unnecessary regulations? If yes, please describe the steps being taken and the regulations which have been eliminated.
 14. EPA is currently undertaking an expensive risk assessment of a hypothetical mine on the Bristol Bay watershed in Alaska.
 - a. Why is EPA undertaking such an assessment, before a permit application has even been submitted?
 - b. Why is EPA undertaking such an assessment of a hypothetical mine, rather than waiting for an actual permit application to be submitted and reviewed under the National Environmental Policy Act?
 - c. Does EPA maintain that it has the legal authority to preemptively veto development projects before a permit application has been submitted? If yes, please explain.

The Honorable John Shimkus

1. Please provide for the record the amount spent by EPA for all testing and any other assessments and other work done by the Agency and related hydraulic fracturing at Dimock, PA; Pavillion, WY; and Parker County, TX.
2. The President's proposed FY14 budget requests \$14.1 million for EPA, DOE, and USGS to collaborate on hydraulic fracturing. Last fiscal year, the President made the same request, bringing total proposed spending on this item to around \$22 million.
 - a. Does this request differ from the FY 2013 request?
 - b. How much are DOE and USGS budgeting for this work?
 - c. How much of your \$14 million fracturing collaboration budget for FY 2014 is for continuing EPA's ongoing study into the potential impacts of hydraulic fracturing on groundwater?
 - d. Could you please provide for the record all the detail you have on EPA's proposed specific uses for that \$14.1 million request?
3. Battelle, an organization that EPA has used extensively in the past, just issued a report questioning the Agency's ability to reach meaningful conclusions using the Agency's current study plan, particularly its methodology and the retrospective case studies.
 - a. Are you aware of or have you seen this new Battelle report?

- b. If so, do you share Battelle's concerns about your hydraulic fracturing study's methodology?
 - c. Are you willing to have EPA re-evaluate the work it have done to date, including the likely scientific merit of any results that may come out of the study?
4. EPA is considering the issuance of Federal guidance on the use of diesel fuel in hydraulic fracturing under its Underground Injection Control program. Yet, EPA has not established that such a federal action is needed to protect underground sources of drinking water as required under section 1421(b) of the Safe Drinking Water Act. The agency has not studied the need for requiring a Class II UIC permit, nor does it appear that EPA is taking into consideration "varying geologic hydrological, or historical conditions in different States and in different areas within a State" as also required by the Act (section 1421(b)). Finally,
- a. What gap in regulation is EPA trying to address with its guidance?
 - b. Why does EPA's proposed guidance expand the definition of "diesel fuel"?
 - i. What could come under that definition in the future?
 - ii. Does EPA have a means or process to add new substances in the future to the definition of "diesel"?
 - c. Are you considering revisiting the diesel fuel guidance idea? If so, will you commit to avoid an overly expansive definition?
5. The President's proposed FY14 budget request for Leaking Underground Storage Tanks (LUST) represents a decline of 4.7 percent from the enacted level in FY12. Since LUST is funded from its own Trust Fund, rather than General Treasury monies, does the decline in request mean there is less of a need in this program area?
6. This past April, press reports indicated that EPA confirmed it had released personally identifying information on thousands of farmers and ranchers to environmental activist groups, as part of a Freedom of Information Act request response. Some of the FOIA requesters are in litigation with the Agency to force regulation of the persons identified by the Agency. Please explain this information release.
- a. What has EPA done to shield, or otherwise make whole, these agricultural producers from the harm that release of their information may cause?
 - c. Does EPA, outside of a formal discovery process, have a policy or guidance regarding the disclosure of personally identifying information as part of a FOIA request, if the requester is in litigation with EPA regarding a Federal regulation?
 - d. Did the EPA release information that was derived from sources other than state regulatory agencies? If so, please provide a list of those sources and a justification for using non-government sources of information.
 - e. Does the EPA intend to gather any more personally identifiable information of livestock producers or other potentially regulated entities?

- b. Is EPA open to receiving supplemental requests for methyl bromide, and if so, will the agency fairly and reasonably evaluate such requests?

The Honorable Ralph M. Hall

It is our understanding that EPA has been enforcing the requirements of the NSPS, Subpart UUU for Calciners and Dryers in Mineral Processing Industries against foundries, despite the fact that the agency never intended to include foundries as a source category for this rule. In April 2008, EPA proposed regulatory language to specifically exempt foundries from the requirements of Subpart UUU, but has never taken final action on the proposed regulatory language.

1. Why has EPA failed to promulgate the exemption for foundries from NSPS, Subpart UUU consistent with the original intent of the rule? When can we expect EPA to take final action on its proposal?
2. Why is EPA enforcing the provisions of Subpart UUU against foundries when the agency never intended to include foundries as a source category for Subpart UUU?

The Honorable Joe Barton

1. In your testimony, you indicated that you have contacted the Inspector General regarding a programmatic audit to address the recent allegations of political bias in EPA's awarding of fee waivers for Freedom of Information Act requests.
 - a. Has EPA submitted a formal request for an audit?
 - b. Has the Inspector General agreed to perform the audit?
 - c. What will be the nature and scope of the Inspector General's review and audit?
 - d. Will you share the findings of the Inspector General audit with Members of this Committee and the public?
2. Gina McCarthy recently stated in her written responses to the Senate Environment and Public Works committee, "I can conceive of circumstances where EPA has disagreed with State's approach on policy grounds but did not intervene to override the state because the state met the relevant legal criteria."
 - a. How do you reconcile her statement with EPA's disapproval of the Texas Commission on Environmental Quality's Flexible Permit Program?
 - b. In August, 2012, the Fifth Circuit Court of Appeals vacated EPA's final rule disapproving the Texas Flexible Permit Program, finding that EPA exceeded its statutory authority in rejecting the Texas Flexible Permit Program sixteen years tardy, and had transgressed the Clean Air Act's delineated boundaries of cooperative federalism. What is the status of the remand of EPA's disapproval of the Flexible Permit Program?
3. Gina McCarthy indicated that she believes EPA's Office of Acquisition Management was involved in the decision to force Battelle to drop their contract with the Association of Air Pollution Control Agencies (AAPCA).

- a. Did EPA present an ultimatum to Battelle to terminate their contract with AAPCA? If so, please provide justification for EPA's actions. In doing so, please explain the criteria used and list any contracts between Battelle and EPA that may have been judged to present a conflict of interest.
- b. What are the larger policy implications of prohibiting a third party contractor from entering into a contract with an environmental, multi-jurisdictional organization for purely administrative and logistical purposes?

The Honorable Lee Terry

1. Is EPA considering replacing the original impingement proposal with a more flexible approach that pre-approves multiple technology options, allows facility owners to propose alternatives to those options, and provides site-specific relief where there are de minimis impingement or entrainment impacts on fishery resources or costs of additional measures would outweigh benefits?
2. EPA's proposed 316(b) rule, EPA has not required existing facilities to retrofit "closed cycle" systems such as cooling towers or cooling ponds if the facilities do not already have such systems, because such retrofits are not generally necessary, feasible, or cost effective. At the same time, facilities that do have closed-cycle systems have long been viewed as satisfying the requirements of section 316(b). Yet in the proposed rule, EPA has defined "closed cycle" cooling much more narrowly for existing facilities than EPA did for new facilities several years ago, thereby excluding a number of facilities. And even for the facilities that qualify, EPA is still imposing new study and impingement requirements. In the final rule that is due this summer, Is EPA considering a broader definition of closed-cycle cooling and measures that more fully view these facilities as compliant? In the final rule that is due this summer, Is EPA considering a broader definition of closed-cycle cooling and measures that more fully view these facilities as compliant?

The Honorable Tim Murphy

1. At last year's budget hearing (Feb. 2012), Administrator Jackson committed to posting notices of intent to sue and rulemaking petitions on the agency's website, and EPA has recently begun to post such notices on its website. You testified at this year's budget hearing that EPA would also begin posting those rulemaking petitions.
 - a. What are EPA's plans with regard to posting rulemaking petitions?
 - b. When and where will they be accessible on EPA's website?
 - c. Will EPA commit to timely updating the website to ensure public access to the rulemaking petitions received by the agency?

The Honorable Robert E. Latta

1. In your testimony, you highlight the fact that supporting states' efforts as the primary implementers of environmental programs is an EPA priority. Yet, through the EPA's budget, it is very clear that the federal agency intends to have a direct role in the regulation of hydraulic fracturing, despite proven state programs, including the very successful one in my state of Ohio under the direction of the Ohio Department of Natural Resources.

- a. Do you believe that state regulatory agencies are not capable of effectively regulating hydraulic fracturing?
 - b. What evidence exists that would justify EPA interference in state regulated hydraulic fracturing operations?
 - c. What is EPA's jurisdictional hook, given the Safe Drinking Water Act's exemption to regulate hydraulic fracturing?
2. As you move forward on greenhouse gas emissions regulations for both new and existing sources, how will you assess the costs?
 - a. Will you consider the impact these regulations will have on manufacturing jobs in your cost-benefit analysis?
 - b. Will you consider how these regulations will impact energy costs?
 - c. Do you consider hiring an employee to solely work on compliance with regulations as beneficial as hiring an employee to work within normal business operations?
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3. Does EPA keep track of compliance costs once a rule is implemented? If not, please explain why.
 4. How much did covered entities spend complying with EPA regulations last year?
 5. Many Ohio producers are taking an active role in mitigating nutrient run-off by voluntarily enrolling in the "4R Nutrient Stewardship" program which stands for using the right fertilizer source, at the right rate, at the right time and with the right placement. Ohio's leading industry representatives have developed this working closely with state agencies.
 - a. Will the agency defer to voluntary, industry-led programs or will the agency issue formal regulations regarding nutrient management?
 - b. Have you engaged stakeholders regarding this issue?
 - i. If so, please provide a list of EPA stakeholder outreach efforts.

The Honorable Bill Cassidy

Recently, you stated that EPA is embracing the spirit as well as the letter of the NAS recommendations to improve the IRIS program. Yet, the recently revised IRIS methanol assessment, which was released last week, EPA categorizes 15 of 19 'short term' recommendations as being only partially implemented and only 4 short term recommendations are listed as implemented. EPA's description for implementing the more substantive recommendations, suggests progress that is minimal at best.

1. What can EPA show to provide true evidence that substantive changes are being made?
2. How long will it be before released IRIS assessments have fully, not partially, implemented the important NAS recommendations?

3. How many more assessments will be released that are not consistent with the NAS recommendations?

The Honorable Cory Gardner

1. Do you believe the Colorado Regional Haze State Implementation Plan (SIP) serves as a model for how states and the federal government should collaborate to reduce regional haze in the West? If so, will EPA be working with the Department of Justice to vigorously defend Colorado's Regional Haze SIP in the 10th Circuit?

The Honorable Mike Pompeo

1. Recently, the EPA has undertaken a wide-ranging review of the retailers that offer Lead Renovation, Repair and Painting (LRRP) installation services rather than the contractors on the jobsite, performing the work. The Agency reportedly has asserted that the retailers themselves are responsible for all aspects of compliance with the LRRP Rule – even though the renovation work is actually performed by the independent, third-party contractors and not by the retailers themselves. What are your thoughts on the expansion of the LRRP rule to include a retailer?
2. Shouldn't the goal of the LRRP rule be to reduce lead based hazards during a renovation project? If so, why is the agency more focused on bureaucratic, administrative errors in the paperwork submitted to a retailer by the independent subcontractors rather than focusing on actual performance and compliance with the rule by the subcontractor onsite in the actual workplace?

The Honorable Bill Johnson

1. The Environmental Protection Agency headquarters in Washington, D.C. maintains an open door with manufacturing companies in the United States. However, companies often encounter less transparency and accessibility with the agency at the research level regarding data. What steps will the Agency take to rectify this problem?
2. On multiple occasions EPA has stated the important value of manufacturing companies in the United States to improving job growth and the environment. Yet many manufacturing companies face serious challenges with regulations by the Environmental Protection Agency, which effectively force manufacturing to relocate outside the United States. What will the Agency do to improve cooperation between the Environmental Protection Agency and these companies?
3. The Environmental Protection Agency is criticized for employing data in various programs that is outdated, if that data is at all revealed to the public or businesses. What measures will the Agency take to correct the use of inaccurate, outdated data in regulatory compliance?
4. I recognize that there are times when spending additional money on a specific regulation is required in order to develop a proper rule. For example, the EPA is currently in the process of developing a MACT standard for the brick industry to replace the MACT that was vacated by the courts in 2007. Since this industry was in full compliance with the original Brick MACT before it was vacated, much of the emission reduction from the larger sources has already been achieved as most of those controls remain in place. In fact, EPA is using data from those sources who installed controls in good faith to force even more stringent controls on this vital industry. How is the Agency effectively using resources to develop a

rule that acknowledges the emissions reductions already attained and to not blindly follow the "one size fits all" approach used in recent MACTs?

5. For example, the Clean Air Act has a different path that is allowed in situations like this. This path, using a combination of health-based standards for threshold pollutants and work practices for pollutants where it is impracticable to measure and control, could both protect the environment and ensure an important industry is not needlessly threatened. Will EPA commit to fully explore this alternative path?
6. The rulemakings for the Brick industry have been impacted by the EPA's "sue and settle" approach to dealing with third-party lawsuits on both rounds. The now-vacated MACT was rushed in 2003 due to a pending lawsuit from an environmental group, resulting in a rule that was vacated by the courts for its deficiencies. Now, this industry is facing another court-ordered schedule based on a consent decree that you recently accepted. What assurances can the Agency give me and this industry, that the schedule will not be used as justification for yet another rushed, deficient rule? And what can the Agency do to ensure that this rulemaking will include a full consideration of the alternative approach of using a combination of health-based and work practice standards to ensure that the requirements of the CAA are followed and the environment protected without requiring huge burdens on a critical industry that provide limited to no environmental benefit?
7. I recognize that EPA is being asked to do more with less; however, so is industry. The brick industry is relatively small, with more limited resources than some of the source categories that you have recently regulated. What is the Agency doing to ensure that this small industry is not disadvantaged simply because it does not have the financial resources to fund research projects to support the rulemaking process? Please explain in detail how EPA ensures that smaller industries have the same access to a fair and reasonable rule as larger industries.
8. Is the EPA maintaining and saving all forms of mobile communication of political appointees? This includes text messages, blackberry messages, iPhone messages, etc.
9. If you are saving all of these messages are you working to turn over messages that are in the scope of FOIA to parties that have requested them?

The Honorable John D. Dingell

1. I recently joined with my colleagues from the Great Lakes region in signing a letter to the Appropriations Committee requesting \$300 million for the Great Lakes Restoration Initiative. I know the Administration requested that level of funding as well. However, I have concerns about what EPA is doing to address water quality in the Great Lakes. On March 15, 2013 I sent you a letter referencing an article in the New York Times which noted that in the 1960s Lake Erie was nicknamed "North America's Dead Sea." I have worked long and hard to pass legislation and funding to protect and preserve the Great Lakes.
 - a. I received a response from your office but given current and requested funding levels, does EPA have the resources to combat massive algae blooms such as the one on Lake Erie?
 - b. Could you please submit for the record additional information on efforts EPA is taking to address this issue?
2. What is EPA doing to enforce the cost of cleanups and emergency cleanups?
 - a. What is EPA doing to hold property owners responsible for the costs related to cleanups?

- b. Is EPA going to continue to hold these existing steps to the highest level of importance?

The Honorable Frank Pallone, Jr.

On January 14th of this year I, along with several of my colleagues in the House of Representatives, wrote to the Office of Management and Budget regarding the RICE/NESHAPS rule. Specifically, we expressed concern with effectively allowing basically unregulated diesel generators to get paid to run as so-called "demand response." Senator Lautenberg and others have also written on this issue and it was raised by Chairman Whitfield at a hearing last week in the Energy and Power Subcommittee.

While the decision to allow these diesel-fueled backup generators to participate in the electricity market was FERC's, it was EPA's decision not to hold these units to the same environmental standards as others bidding into the market, even though these dirty diesel units are displacing cleaner sources of generation, including solar and wind. Perhaps that's why the concern over this decision has been raised by a diverse set of concerned stakeholders including environmental groups, New Jersey and other states, and power companies. This very diverse set of stakeholders coming together on the same side has now taken the rule to court to petition the EPA for reconsideration.

1. Given the concerns raised by this unique coalition of stakeholders and members, does EPA plan to reconsider the RICE/NESHAPS rule?

The Honorable Diana DeGette

1. Is it known for certain whether or not shale gas development through hydraulic fracturing poses an increased risk to human health and the environment over the risks associated with conventional oil and gas development?
2. Is it known for certain whether or not shale gas development through hydraulic fracturing poses no risk to the environment or public health?
3. As you know, in 2010 former Congressman Hinchey and I requested an EPA study to determine the potential impacts of hydraulic fracturing on drinking water. In your FY2014 budget request, you ask for \$6.1 million for the study. As I understand, the study is currently underway with the final report due in late 2014. Is that still the timeline?
4. Is it correct that the hydraulic fracturing drinking water study has been designated a Highly Influential Scientific Assessment, and that a new Scientific Advisory Board, different from the Scientific Advisory Board that reviewed the scoping for the study, has been selected to review the draft report?
5. Given the designation of the study as a Highly Influential Scientific Assessment and the formation of a new Scientific Advisory Board, do you still have sufficient funding, time and access to information to complete the study by late 2014? Or will it only be released for peer review by that time?
6. One part of the study I am especially interested in is the case studies. You identified five sites for retrospective case studies and directed EPA, the state and industry to be present during sampling to verify and review the samples for quality assurance.

- a. What are the statuses of the retrospective studies at the five sites? Have there been any issues with data collection and analysis?
 - b. There are also supposed to be a number of prospective case studies, where wells are drilled, completed, and then produce, with data collection and measurements each step of the way. What about the sites for prospective case studies? Have they been identified, and do you have the resources and support to proceed?
 7. The EPA has also issued requests for existing data concerning spills, water and waste treatment and disposal, identities of chemicals, standard operations at drilling sites, well locations, water use, well files, etc., from state, Federal, and local governments, as well as industry and other stakeholders.
 - a. Are there any existing or ongoing requests for information? How much of a response have you received?
 8. As you know, the Energy Policy Act of 2005 exempted hydraulic fracturing from EPA regulation under the Safe Drinking Water Act, except when diesel is used. In the EPA's budget justification you mention EPA will ensure proper oversight of hydraulic fracturing operations where diesel fuel is used by implementing permitting guidance under SDWA's Class II UIC program. What is the status of the guidance?
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9. The budget justification also mentions that the agency also will work with states and stakeholders on developing and implementing voluntary strategies for encouraging the use of alternatives to diesel in hydraulic fracturing and improving compliance with other Class II regulations, including risks from induced seismic events and radio nuclides in disposal wells. One of the primary factors in America's significant reductions in pollution over the last 40 years has been federal baseline policies for restoring and protecting the environment, including the UIC program. Could you or your staff continue to update us on the guidance and the outreach to improve compliance for this program?

The Honorable John Barrow

1. I understand that you've been working with stakeholders to finalize the rule governing cooling water intake structures under Section 316(b) of the Clean Water Act. Last year, I joined on a letter to EPA urging that the final rule should provide ample compliance flexibility to accommodate a diversity of industrial facilities and allow for multiple pre-approved technologies. Can you provide an update on your progress for finalizing the rule with those goals in mind?

The Honorable Jerry McNerney

1. At the hearing, EPA stated that it plays a role in reviewing the Bay Delta Conservation Plan (BDCP).
 - a. What have been and what are the specific actions EPA is involved with during this interagency process?
 - b. How has the EPA communicated with other federal agencies that are also working on the BDCP?
2. The EPA's *Action Plan for the Bay-Delta* stated that "Despite much ongoing activity, CWA (Clean Water Act) programs are not adequately protecting Bay Delta Estuary aquatic resources, as evidenced by the

pelagic organism decline." Does EPA believe that the current BDCP proposal adequately addresses the concerns outlined in its report related to protecting the Bay Delta Estuary?

3. How many and what type of EPA resources (e.g. number of staff, hours worked, and total agency funds, etc.) were used on the BDCP in fiscal years 2011-2012?

Eades, Cassaundra

From: Janifer, Pamela
Sent: Tuesday, October 22, 2013 12:17 PM
To: Eades, Cassaundra; Mims, Kathy
Subject: QUESTIONS FOR THE RECORD - Committee on Energy and Commerce
Attachments: HEC QFRs 5 16 13 Budget hearing.pdf

Ladies – Can you enter these QFR responses in CMS. Thanks



Pamela Janifer • Congressional Liaison

U.S. Environmental Protection Agency • Office of Congressional and Intergovernmental Relations

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From: Moody, Christina
Sent: Tuesday, October 22, 2013 11:55 AM
To: Janifer, Pamela
Subject: FW: QUESTIONS FOR THE RECORD - Committee on Energy and Commerce

Christina J. Moody, Acting Deputy Director
Office of Environmental Education
US Environmental Protection Agency
Moody.Christina@epa.gov
202.564.0260

From: Moody, Christina
Sent: Wednesday, September 18, 2013 9:50 AM
To: 'Abraham, Nick'
Subject: RE: QUESTIONS FOR THE RECORD - Committee on Energy and Commerce

Nick,

Attached please find EPA's responses to the questions for the record submitted by members of the Subcommittees.

Please confirm receipt of this email and contact me with any questions.

Kind Regards,

Christina J. Moody
Office of Congressional &
Intergovernmental Relations

US Environmental Protection Agency
Moody.Christina@epa.gov

From: Abraham, Nick [<mailto:Nick.Abraham@mail.house.gov>]
Sent: Thursday, June 06, 2013 2:11 PM
To: Vaught, Laura
Cc: Moody, Christina; Levine, Carolyn; Neumayr, Mary
Subject: QUESTIONS FOR THE RECORD - Committee on Energy and Commerce

Ms. Vaught:

Many thanks to Acting Administrator Perciasepe for testifying on May 16, 2013, at the Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy joint hearing entitled "The Fiscal Year 2014 Environmental Protection Agency Budget." The questions for the record submitted by members of the Subcommittee are attached to this e-mail.

Please confirm receipt of this email contact me with any questions or concerns.

Kind Regards,

Nick Abraham
Legislative Clerk | Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn Building | 202.225.2927



Questions for the Record
Subcommittee on Energy and Power
Subcommittee on Environment and the Economy
Fiscal Year 2014 Environmental Protection Agency Budget
May 16, 2013

The Honorable Tim Murphy:

- 1: With respect to EPA and FOIA fee waiver requests, I hope you will submit for the record the value of FOIA fees waived by EPA.

Answer: The EPA, as reported in its Freedom of Information Act (FOIA) Annual Report to the Department of Justice in Fiscal Year 2012 (available online: <http://www.justice.gov/oip/reports.html>), spent \$18,018,517 for FOIA processing. During the same period the EPA collected \$385,722 which equated to 2% of the cost of the program.

The Honorable Michael C. Burgess:

- 1: Lisa Jackson went to the United Nations Conference on Sustainable Development, referred to as Rio+ 20. How much did we spend to send Lisa Jackson to Rio 20?

Answer: The total travel cost to send Lisa Jackson to Rio+20 was \$3,831.00. This figure comes from the Administrator's travel voucher and includes airfare, hotel, per diem, etc.

The total cost to send Lisa Jackson and support staff to Rio +20 was \$43,806.00. This number includes costs for Lisa Jackson, two staff from the Administrator's Office, one security employee and two people who were on the advance team for a total of six people traveling. The total trip budget is made up of the following:

Administrator and Staff Expenses for Rio + 20 Conference	
Travel costs (airfare, per diem, hotel, airport expediting fees, etc) for Lisa Jackson and 2 EPA staff	\$12,127.00
Ground transport for armored (1) and non-armored (3) vehicles including drivers' time	\$18,742.00
Travel costs for security (1 person) and advance staff (2 people)	\$12,937.00
Total Cost	\$43,806.00

The Honorable Bill Cassidy:

- 1: In October of 2011 the EPA Office of Underground Storage Tanks announced a proposed revision to the 1988 Federal Underground Storage Tank regulation, and industry stakeholders along with Petroleum Marketers Association of America submitted comments. EPA estimated the compliance costs to be about \$900 per year per facility while the petroleum marketers and others estimate true costs to be \$6,100 per year. Now, of course, this concerns them, and they are requesting that the EPA withdraw the proposed rule, which is to be finalized in October of 2013, this year, and form a small business regulatory advisory panel to determine the true compliance costs. They tell me a letter was received from EPA, and the letter did not agree to the regulatory advisory panel. What are the true compliance costs? Is EPA reluctant to form an advisory or other committee to determine the true compliance costs?

Answer: In order to determine which changes to make to the UST regulations, the EPA conducted extensive outreach to stakeholders for several years. We reached out to a variety of stakeholders including owners and operators such as the Petroleum Marketers Association of America (PMAA). We recognized that many of our stakeholders are small businesses and as a result, we made a concerted effort to avoid costly retrofits. We carefully evaluated the costs associated with the proposal and determined that they did not meet the threshold to convene an advisory panel. Before, during, and since the end of the rulemaking comment period, we have held more than 100 meetings with stakeholders. We met with all stakeholders who asked to do so, including PMAA. In order to ensure all stakeholders had an opportunity to comment on the proposal, we extended the comment period from 90 to 150 days.

The EPA takes the comments we received during the comment period, including those from PMAA, very seriously. After receiving comments, the EPA worked diligently to understand PMAA's cost information comments so that we could rigorously evaluate our cost analysis. We appreciate the detailed response from commenters and believe we fully understand the comments including the compliance costs submitted by PMAA and others. We are currently working to determine the appropriate path forward using the comments we received to help inform our decision making. Costs and benefits associated with the final rulemaking will depend on the scope and content of the final rule.

The Honorable H. Morgan Griffith:

- 1: In the case of the Clean Air Act, for consent decrees there is a statutory opportunity to comment before they are entered by the court. Does opportunity for public comment ever result in changes to a settlement? We are aware of only one instance involving technology and residual risk reviews for various sources where that has occurred. Can you get that information?

Answer: Public comments on proposed consent decrees and settlement agreements have resulted in changes to the terms of the final versions of those agreements. As required by section 113(g) of the Clean Air Act, the EPA provides notice in the Federal Register of proposed settlement agreements and consent decrees, and allows the public to comment on them. While the EPA does not usually receive comments on proposed settlement agreements or consent decrees, whenever it

does, the EPA evaluates them to determine whether changes to the settlement agreement or consent decree are warranted.

In response to public comment related to *Sierra Club v. EPA*, 4:09-cv-152 (N.D. CA), after the section 113(g) process and before we finalized the consent decree, we negotiated modified deadlines for proposed and final actions with regard to technology and residual risk review. That is not the only time we have done so. For example, there was also a comment in *Sierra Club v. EPA*, 1:12-cv-00013 (D.D.C.) that resulted in changes. South Carolina filed an adverse comment on a proposed consent decree regarding a proposed deadline for the EPA's action on an element of a South Carolina state implementation plan. As a result of the comment, we renegotiated the consent decree and took that deadline out of the consent decree. The modified consent decree was entered by the court on October 1, 2012.

The Honorable John D. Dingell:

- 1: I see that the President's fiscal year 2014 budget request for CERCLA or superfund is \$33 million less than for fiscal year 2012. Can CERCLA continue to fulfill its duties and its current cleanup responsibilities and obligations without slowing down significantly because of this reduction in funding? Would you submit some additional information on that issue, please, so that we may evaluate that more adequately?
-

Answer: The Superfund Program's priority remains protecting the American public and reducing risk to human health and the environment by cleaning up contaminated sites. While continuing to rely on the agency's Enforcement First approach to have potentially responsible parties conduct or pay for cleanups, the Superfund Remedial program will continue to focus on completing ongoing projects and maximizing the use of site-specific special account resources. The Agency will also continue to place a priority on achieving its goals for two key environmental indicators, Human Exposure Under Control (HEUC) and Groundwater Migration Under Control (GMUC).

Many federal programs have undergone substantial reductions in the past several years to help address national budget deficits. The President's FY 2014 budget request had to make difficult choices with regard to funding EPA programs, including the Superfund Remedial program. The FY 2014 President's Budget request for the Superfund Remedial program represents a \$26 million reduction from the FY 2012 Enacted level but an increase of \$32 million from FY 2013 post-sequester funding levels (primarily due to the sequestration reduction of \$22 million). The reductions over the last two years are having an impact on program performance throughout the cleanup pipeline leading to a cumulative reduction in the EPA's ability to fund remedial investigation/feasibility studies (RI/FSSs), remedial designs (RDs), remedial actions (RAs) and ongoing long-term response actions. Based on current planning data the number of new EPA-financed construction projects that will not be funded could number as many as 40-45 by the end of FY 2014.

The Honorable Ed Whitfield:

- 1: A FOIA-related situation has recently come to my attention that raises questions about whether the EPA may employ a similar practice when it comes to granting timely access to public records under the FOIA process. A case in point has arisen out of Louisiana, where an advocacy group, the Louisiana Bucket Brigade (LABB), was able to gain access, through FOIA, to an EPA draft RMP inspection report of the Baton Rouge Refining Facility, within 16

days of its original FOIA request of Dec. 14, 2012 (Tracking Number: EPA-R6-2013-002185). Conversely, an industry trade association, the Louisiana Mid-Continent Oil & Gas Association (LMOGA) submitted a FOIA request (Tracking Number: EPA-R6-2013-005253) on April 8, 2013, for information related to the fulfilling of LABB's Dec. 14, 2012, FOIA request, yet as of May 20, 2013 – 42 days later – its request has not been answered.

- a. Given the concerns that have been raised about potential bias when it comes to FOIA fee waivers, can the EPA say with certainty that when it comes to the timeliness of processing FOIA requests that there is not a bias in favor of environmental groups over industry organizations, state or local governments?

Answer: The EPA reviewed its fee waiver decisions and determined that the Agency acted appropriately without any individual bias or partisan ideology. Individual bias or partisan ideology is not practiced by the Agency in its FOIA program, including the timeframes in which requests are answered. It is the EPA's policy to process requests on a "first in, first out" basis in programs and regions, unless a request for expedited processing has been granted. The EPA's regulations governing the FOIA process, including responses to FOIA requests, are available on its FOIA website at <http://www.epa.gov/foia/>.

- b. Will EPA include review of FOIA response times in the agency's upcoming audit of its FOIA fee-waiver practices?

Answer: The Office of Inspector General notified the Agency's Chief Information Officer on June 19, 2013 that, in response to the request from the Acting Administrator, it would be reviewing the Agency's fee waiver process, including timeliness and equity in decision-making of these requests.

- c. What protocols does the Agency currently have in place for monitoring and ensuring adequate FOIA response times in accordance with FOIA and case law?

Answer: To monitor and better ensure timeliness in responding to FOIA requests, the EPA deployed FOIAonline, its new FOIA management and records repository tool, in October 2012. FOIAonline automates most FOIA administration activities – bringing needed efficiencies to Agency FOIA processes. FOIAonline provides automated workflows which allow staff to quickly deliver requests to the organizations that have responsive records and post those records online for public access. To increase accountability at the highest levels across the Agency, beginning in July 2013, the Agency FOIA Officer will begin providing quarterly reports on the status of FOIA requests to Agency senior leaders so that they are aware of and can address any processing delays. To ensure that Agency employees are aware of their FOIA responsibilities and know how to respond to requests, the EPA is developing online training for all FOIA personnel and employees including specialized training for managers who make decisions on the release of documents. These trainings will be mandatory and available by December 31, 2013. In addition, the EPA holds yearly training sessions for all Agency FOIA professionals. The Agency FOIA Officer holds monthly meetings with EPA FOIA Officers and FOIA Coordinators in which they receive training and guidance.

- d. Is the EPA aware of any instances in which it has answered a FOIA request through the unofficial sharing of relevant documents and information in lieu of formally releasing the requested information via a publically accessible database?

Answer: The EPA's current practice is to make FOIA responses available through the FOIAonline tool where feasible. Historically, the EPA has responded to FOIA requests by sending its official responses, including any relevant documents, directly to FOIA requesters. In some instances, when the EPA determined that there would be multiple requests for the same documents or significant interest in the documents, the EPA proactively posted the documents in an electronic reading room. The Agency did not begin to post all responsive records in a database until FOIAonline was deployed in October 2012. The Agency does not usually provide records requested under FOIA when those records are in the public domain (i.e., websites, dockets, publications, etc.). The requester is informed where the records can be obtained.

- 2: With respect to the Clean Air Act's regional haze provisions, does EPA agree that the Clean Air Act as written and as amended gives the states, rather than the federal government and the EPA, primacy over visibility and regional haze standards? If not, please explain.

Answer: We agree that states have the initial and primary responsibility to develop regional haze plans under the Clean Air Act (CAA) and the EPA agrees that the EPA should give deference to state decisions that have followed the regional haze rule guidelines and result from a rigorous analysis of control options, control costs, and visibility impacts. The EPA has been collaborating with the states and with their regional planning organizations since 1999 on the development of regional haze plans. Our preference and practice has always been to allow states that are moving forward to complete their work, and then to give due deference to the emission control decisions that they reach based on accurate technical information. If the state has used a technically flawed assessment of costs or visibility improvement, the EPA cannot approve the state's decision and the state must revise its plan or the EPA is obligated to adopt a Federal plan. We have fully approved regional haze plans in 19 states and have approved reliance on the Cross-State Air Pollution Rule to satisfy regional haze requirements for power plants in 14 other states. We have only issued full federal plans for three states who asked us to do so. Partial federal plans (covering a small number of specific sources) where the EPA disagreed in part with the state's assessment are in place in eight states. In those instances where we have put in place a federal plan, the 2-year "clock" for the state to submit an approvable state implementation plan had already run out. We are committed to continuing to work with the states that are now subject to a federal plan on approvable revisions to their state plan to ensure that the state plans fully meet the requirements of the regional haze rule. For example, collaborative efforts between the EPA and state officials in Oklahoma and New Mexico have been successful in crafting acceptable alternatives to the federal plans that the EPA initially put in place. When a revision to a state plan is submitted to the EPA and approved, we will withdraw our federal plan.

- 3: EPA has proposed a regional haze regulation for the Navajo Generating Station that could require an investment of more than \$1 billion with potentially no perceptible visibility improvements. In particular, a study done by the Department of Energy's National Renewable Energy Laboratory (NREL) last year concluded: "The body of research to date is inconclusive as to whether removing approximately two-thirds of the current NOx emissions from Navajo Generating Station would lead to any perceptible improvement in visibility at the Grand Canyon and other areas of concern." Does EPA reject NREL's conclusion? If yes, please explain the basis for rejecting this conclusion.

Answer: The EPA proposed a Best Available Retrofit Technology (BART) emission limit that can be achieved with the installation of selective catalytic reduction (SCR) with low-NOx burners and separated over fire air (LNB/SOFA). The proposal includes options for extended compliance schedules and a framework for other possible alternatives that stakeholders may want to offer. As stated in our proposed rulemaking, the EPA estimates the total capital costs of our proposed BART determination to be \$541 million.

The EPA disagrees with NREL's conclusion on the effects of emissions from the Navajo Generating Station (NGS) on visibility at areas of concern in the region. NREL's expertise is in the power sector, including fundamental energy science, energy analysis, and validating new products for commercial markets. NREL performed no visibility modeling of their own to support their statements regarding anticipated visibility improvements. In addition to the quote cited above from the NREL study, the conclusion in the NREL report further states that resolving questions regarding visibility science requires expertise in atmospheric chemistry and air transport modeling, not power sector expertise. The National Park Service, the Federal Land Manager charged with the protection of visibility at all National Parks, has been at the forefront of visibility science since the inception of the visibility provisions of the 1977 amendments to the Clean Air Act. In a letter dated April 6, 2012 to the EPA, the National Park Service expressed its concerns regarding the inadequacy of two sections of the NREL analysis: the discussions of control technologies and visibility science. Specifically, the National Park Service stated that the NREL study makes a number of inappropriate comparisons between models and modeling results. The National Park Service further supported key inputs used in the EPA's modeling analysis. The EPA's analysis demonstrates that the installation and operation of the proposed BART controls at NGS would result in the largest visibility improvements in the nation from the control of a single stationary source.

- 4: The Navajo Generating Station plant is critical to the Arizona economy and jobs, and to the Central Arizona Water Project. In the proposed rule, EPA itself states that "the importance to tribes of continued operation of NGS and affordable water costs cannot be overemphasized." Is it reasonable for EPA to propose requiring the owners to spend hundreds of millions of dollars, or possibly over \$1 billion, for potentially no perceptible visibility improvements? Can EPA commit that the agency will not finalize a rule that effectively forces the facility to shut down all or a significant part of its operations?

Answer: The EPA recognizes the important role of NGS to the economy of numerous Indian tribes, as well as to the broader regional and state economies. The EPA considered all information provided to us regarding the economic and employment benefits of NGS in our proposed rulemaking. As described in our proposed rule, the EPA understands that the timing of regulatory compliance is critical to the continued operation of NGS. As an alternative to the BART proposal, the EPA proposed a "better than BART" approach that provides significant additional time for compliance. Additionally, the proposed rule puts forth a framework for developing other alternatives and encourages the owners of NGS and other stakeholders to use this framework to develop other alternatives that would provide additional flexibility in the compliance timeframe. These alternatives would help assure continued operation of NGS while ensuring greater reasonable progress than BART towards the national visibility goal set by Congress in the Clean Air Act. This is consistent with the action the EPA took with the Four Corners Power Plant (<http://www.epa.gov/region9/air/navajo/pdfs/four-corners-final-fact-sheet-08-06-2012.pdf>).

The EPA proposed a BART emission limit that can be achieved with the installation of selective catalytic reduction (SCR) with low-NOx burners and separated overfire air (LNB/SOFA). As stated in our proposed rulemaking, the EPA estimates the total capital costs of our proposed BART determination to be \$541 million. As discussed in our proposed rule, the owners of NGS installed LNB/SOFA on each unit over 2009 – 2011, at a total cost of \$45 million. Therefore, the EPA estimates the cost of SCR alone to be \$496 million. The EPA estimates that the total annual cost (operation and maintenance costs plus the annualized capital costs) of our proposed rule to be \$64 million per year. Under the EPA's proposed BART alternative, these costs would not be incurred in full until 2023.

The analysis for our proposed rulemaking includes an affordability study that estimates the electricity generation costs of SCR compared to the costs of purchasing an equivalent amount of power on the wholesale market. The results of this analysis show that the cost of the installation and operation of SCR is less than the total cost to purchase electricity on the wholesale market from elsewhere in the West. The economic analysis conducted by NREL resulted in similar conclusions. Given the results of the EPA and NREL's economic analyses and the additional time for compliance that the EPA has proposed, we do not believe that NGS would shut down as a result of the EPA's BART determination.

As of July 26, the EPA has received approximately 40,000 comments on the proposal, as well as an alternative BART proposal from a Technical Working Group (TWG) comprised of the Department of the Interior (DOI), Salt River Project, the Navajo Nation, the Gila River Indian Community, the Environmental Defense Fund, Western Resource Advocates, and the Central Arizona Water Conservation District that follows the framework we laid out in the BART proposal. This alternative clearly represents significant work and expertise from many key stakeholders. The EPA looks forward to carefully reviewing this and any other alternative proposals that follow the framework we laid out and intends to provide sufficient opportunity for the public to review and comment on them before finalizing a BART determination for NGS.

- 5: Under the Montreal Protocol and Title VI of the Clean Air Act, EPA has been phasing out the consumption and production of hydrochlorofluorocarbons (HCFCs). What is EPA's timetable for proposing and promulgating rules governing HCFC allowances for the period of 2015-2019? What steps is EPA taking to ensure that the proposed rule can be completed well enough in advance of 2015 so that companies and industries can plan and operate their business accordingly?

Answer: With regard to the 2015-2019 HCFC Allocation Rule, the EPA plans to issue a proposed rule by the end of 2013 and a final rule in 2014. To ensure this rule is completed in a timely fashion, the agency has been meeting with numerous industry stakeholders over the past six months to discuss the specifics of the rule and plans to submit the proposal to the Office of Management and Budget for interagency review this summer. The proposed rule should provide the industry with significant advance notice of the agency's plans for the 2015 allocation.

- 6: During the FY 2014 budget hearing before the Interior Appropriations Subcommittee, you were asked about EPA's proposed order revoking the food uses for sulfuryl fluoride. As you are aware, EPA had strongly encouraged the agricultural and food production sectors to transition to sulfuryl fluoride as a substitute for methyl bromide. In your testimony, you stated that EPA is "sympathetic to the problem" created by the proposed order and acknowledged the pending legislation that would direct EPA to withdraw it. You also testified that "sulfuryl fluoride is a pretty important fumigant," "a good replacement" for

methy bromide," and an "important tool." Does this mean that EPA is willing to work with Congress to provide certainty to the agricultural and food production sectors that they will be able to continue using sulfuryl fluoride to protect America's food supply from dangerous and destructive pest infestations?

Answer: The agency has been and remains willing to provide technical assistance to Congress on drafting legislation regarding the tolerances for sulfuryl fluoride.

- 7: EPA publishes hundreds of final rules each year in the Federal Register. Does EPA track the number of rules it issues each year? If yes, please provide of final rules published for each of the following years: 2009, 2010, 2011 and 2012.

Answer: The Congressional Review Act (CRA) requires an agency promulgating a rule to submit the rule to Congress and to the Government Accountability Office (GAO) before it can take effect. GAO compiles statistics on its own website about all final agency rulemakings received under the CRA at <http://www.gao.gov/legal/congressact/fedrule.html>. According to GAO's database, the EPA published 406, 442, 482 and 584 rules subject to the CRA in 2009, 2010, 2011 and 2012, respectively. This number includes hundreds of routine and/or frequent actions such as State Implementation Plans approvals and pesticide tolerances.

- 8: Does EPA track the total new compliance costs of the rules it issues each year? If yes, please provide the estimated total compliance costs for EPA rules published in 2009, 2010, 2011 and 2012.

Answer: The EPA routinely reports estimates of both benefits and costs in regulatory impact analyses prepared for each of its major rules. The Office of Management and Budget (OMB) compiles estimates of the total annual benefits and costs of major rules by Agency. The table below shows aggregate benefits and costs for the years in question, drawing on the information presented in OMB's Reports to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local and Tribal Entities.

It is important to note that any aggregate estimate of total costs and benefits must be highly qualified. Problems with aggregation arise due to differences in baselines and assumptions, data limitations, and inconsistencies in methodology and type of regulatory costs and benefits considered. The aggregate estimates presented combine annualized and annual numbers. Cost savings are treated as benefits. Further, the ranges presented below do not reflect the full range of uncertainty in the benefit and cost estimates for the rules. Limitations in existing information and methods prevent the quantification and monetization of relevant benefits and costs and these categories may be significant.

**Total Annual Benefits and Costs of Major, EPA Rules
(in billions)**

Fiscal Year	Benefits	Costs	Number of Rules
2012	\$28.5 to \$77.5	\$8.3	3
2011	\$20.5 to \$59.7	\$0.7	3
2010	\$10.8 to \$60.8	\$1.9 to 3.6	6
2009	\$.46 to \$5.2	\$.11 to 2.2	1

Note: Totals do not reflect rules promulgated jointly with other Agencies.

Source: OMB, Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local and Tribal Entities. 2013 (draft), 2012, 2011, 2010.

- 9: Section 321(a) of the Clean Air Act requires the EPA "conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this Act and applicable implementation plans, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement."
- a. Has EPA ever conducted a study or evaluation under Section 321(a)? If yes, please describe each study or evaluation, when it was conducted, and the results of the study or evaluation.
 - b. Has EPA ever investigated a threatened plant closure or reduction in employment allegedly resulting from administration or enforcement of the Clean Air Act? If yes, please describe each such investigation, when it was conducted, and the results of the investigation.

Answer: Section 321 provides a mechanism for the EPA's investigation of particular claims of job loss related to plant closure or layoffs in response to environmental regulation. The EPA could not find any records of any requests for Section 321 investigations of job losses alleged to be related to regulation-induced plant closure. As a result, the EPA has not conducted any studies or evaluations under Section 321(a). Nevertheless, since 2009, the EPA has focused increased attention on consideration and, where data and methods permit, analysis of potential employment effects as part of the routine regulatory impact analyses (RIAs) conducted for each major rule.

- 10: In its 2010 proposed ozone rule, EPA estimated that the costs to the American manufacturing, agriculture and other sectors could reach \$90 billion per year. Many have raised concerns that with such costly rules, we are driving manufacturing and agricultural production out of the U.S. to other countries with lax environmental standards.
- a. In analyzing these regulations, does EPA consider the economic and environmental effects of driving manufacturing offshore to countries with little or no environmental controls?
 - b. If yes, please explain. If not, why not?

Answer: The EPA has found no empirical evidence that air pollution regulation has caused U.S. manufacturing to shut down domestic operations and move overseas. Of layoffs events reported to the Bureau of Labor Statistics by U.S. businesses in 2011, only 0.23% were due to Government regulation of any kind, and the rest were due to other factors like routine business cycles, company reorganizations, and weather events.¹

More than forty years of experience with the Clean Air Act has shown that America can build its economy and create jobs while cutting pollution to protect the health of our citizens and our

¹ Bureau of Labor Statistics, Mass Layoff Statistics Program. <http://www.bls.gov/mls/mlsreport1039.pdf>. December 2012.

workforce. Between 1970 and 2011, the economy grew by 212 percent, while emissions of the six most common air pollutants fell by 68 percent and private sector jobs grew by 88 percent.²

11: When President Obama announced Executive Order 13563 in 2011, he promised "to remove outdated regulations that stifle job creation and make our economy less competitive," However, based on review of EPA's most recent retrospective review of regulations, it appears EPA has only completed review of 13 regulations. Most of the revisions appear to be minor, and one of the revisions actually increases regulation.

a. How many regulations has EPA reviewed as part of this process?

Answer: In early 2011, President Obama issued EO 13563 in coordination with his plan to create a "21st-century regulatory system" that protects public health and welfare while at the same time promoting economic growth, innovation, competitiveness and job creation. As part of this plan, the EPA reviewed existing regulations to determine which could be modified, streamlined, expanded or repealed to make our regulatory system more efficient and effective. The agency thoughtfully selected 35 actions to retrospectively review. As of our July 2013 progress report the EPA has completed 18 reviews. Our next progress report is due to OMB in January 2014

b. Is the agency continuing to take steps to eliminate outdated or unnecessary regulations? If yes, please describe the steps being taken and the regulations which have been eliminated.

Answer: Yes, the agency continues to take steps to eliminate outdated or unnecessary regulations. In addition to continuing work on the remaining actions in our plan, statutes may affirmatively require the EPA to consider specific factors in reviewing regulations or contain express limitations regarding what the Agency is prohibited from taking into account. Numerous statutory provisions require the EPA to periodically review Agency rules, including provisions in the Clean Air Act (CAA), the Clean Water Act (CWA); the Safe Drinking Water Act (SDWA); Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund), Resource Conservation and Recovery Act (RCRA); Toxic Substances Control Act (TSCA); Marine Protection, Research, and Sanctuaries Act (MPRSA); Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); and Emergency Planning and Community Right-to-Know Act (EPCRA). The EPA's most recent Regulatory Agenda contains information and upcoming milestones for each of our active regulatory actions, including those that are periodic reviews.

Further, the EPA has a long history of reviewing regulations and related activities at its own discretion in an effort to continually improve its protection of human health and the environment and eliminate unnecessary burden on regulatory entities. It is the Agency's ongoing responsibility to listen to regulated groups and other stakeholders; rely on the EPA's expertise and quality scientific and economic analyses; address petitions for regulatory revisions; and otherwise respond to public and internal cues that indicate when reviews are necessary.

The Honorable John Shimkus

² Source: U.S. Department of Commerce, U.S. Department of Transportation, U.S. Department of Labor, U.S. Census, U.S. Energy Information Administration, U.S. EPA.

- 1: Please provide for the record the amount spent by EPA for all testing and any other assessments and other work done by the Agency and related hydraulic fracturing at Dimock, PA; Pavillion, WY; and Parker County, TX.

Answer: An estimated \$4.7 million has been spent for assessment-related activities at these sites from FY 2009 through FY 2013.

- 2: The President's proposed FY14 budget requests \$14.1 million for the EPA, DOE, and USGS to collaborate on hydraulic fracturing. Last fiscal year, the President made the same request, bringing total proposed spending on this item to around \$22 million.

- a: Does this request differ from the FY 2013 request?

Answer: The \$14.1 million FY 2014 request is for the same amount of resources as the total FY 2013 request. In FY 2013, the EPA spent \$6.1 million to continue the Study of the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources, equal to the amount provided in FY 2012.

The requests are similar though they are not identical. For example, in FY 2013 and FY 2014, the EPA requested to focus on three research areas: continuing work on drinking water study; water quality and ecological studies; and air quality studies. However, in the FY 2013 request, the EPA included potential screening for seismic risks from HF. In the FY 2014 request, this area is not part of the EPA's planned research, because it falls under the core competencies of the EPA's other Federal research partners.

- b: How much are DOE and USGS budgeting for this work?

Answer: The FY 2014 request for the EPA, DOE, and USGS to collaborate on hydraulic fracturing research totals \$44.7 million. The EPA is requesting \$14.1 million, DOE \$12.0 million, and USGS \$18.6 million.

- c: How much of your \$14 million fracturing collaboration budget for FY 2014 is for continuing EPA's ongoing study into the potential impacts of hydraulic fracturing on groundwater?

Answer: Of the \$14.1 million FY 2014 request, \$6.1 million is for continuing work on the Study of the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources.

- d: Could you please provide for the record all the detail you have on EPA's proposed specific uses for that \$14.1 million request?

Answer: The President's Budget for FY 2014 requests a total of \$14.1 million for the EPA to conduct UOG research. Resources are requested in three research areas: (a) continuing work on drinking water study (\$6.1 million); (b) water quality and ecological studies (\$4.3 million); and (c) air quality studies (\$3.8 million). These research areas are among those identified as high priority research topics as part of the tri-agency effort and represent the EPA's FY 2014 contribution to that effort.

With respect to the drinking water study, a draft report of the study results is expected to be provided to the Science Advisory Board for peer review and public comment in December 2014. FY

2015 resources will be used to revise the report, as needed, to reflect the comments received during public comment and peer review.

3: Battelle, an organization that EPA has used extensively in the past, just issued a report questioning the Agency's ability to reach meaningful conclusions using the Agency's current study plan, particularly its methodology and the retrospective case studies.

a: Are you aware of or have you seen this new Battelle report?

Answer: Yes, the EPA is aware of the Battelle report, has received copies of the report, and is currently reviewing the report.

b: If so, do you share Battelle's concerns about your hydraulic fracturing study's methodology?

Answer: The EPA continues to welcome input concerning the agency's ongoing studies of hydraulic fracturing. We are currently reviewing the Battelle report and will consider and evaluate the results and conclusions in that report.

c: Are you willing to have EPA re-evaluate the work it has done to date, including the likely scientific merit of any results that may come out of the study?

Answer: The EPA's research products, such as papers or reports, are subjected to both internal and external peer review before publication. These peer review activities are designed to ensure that data are collected, analyzed, and used appropriately and that results and conclusions are supported by the best possible science. The EPA's external peer reviews are conducted following the Agency's Science Policy Council Peer Review Handbook (USEPA 2006) and OMB Information Quality Guidelines.

As we are conducting a broad review of the literature and reference documents to inform our December 2014 draft report of results, the EPA is following guidelines set forth in US EPA (2003) A Summary of General Assessment Factors for Evaluating the Quality of Scientific and Technical Information, US EPA Science Policy Council, Washington, DC. It is expected that information included in the synthesis report will be drawn primarily from peer reviewed publications.

4: EPA is considering the issuance of Federal guidance on the use of diesel fuel in hydraulic fracturing under its Underground Injection Control program. Yet, EPA has not established that such a federal action is needed to protect underground sources of drinking water as required under section 1421(b) of the Safe Drinking Water Act. The agency has not studied the need for requiring a Class II UIC permit, nor does it appear that EPA is taking into consideration "varying geologic hydrological, or historical conditions in different State and in different areas within a State" as also required by the Act (section 1421(b)). Finally, what gap in regulation is EPA trying to address with its guidance?

Answer: Through the 2005 Energy Policy Act's amendments to the Safe Drinking Water Act (SDWA), Congress established that hydraulic fracturing operations that use diesel fuels as components of fracking fluids are subject to regulation under the Underground Injection Control (UIC) program. Through its diesel fuels hydraulic fracturing guidance, the Agency will provide its interpretations of

the 2005 statutory amendment and existing regulations as well as non-binding technical recommendations for implementing such requirements.

- a: Why does the proposed guidance attempt to expand EPA's definition of "diesel fuel?"

Answer: There is no single way of defining diesel fuels accepted universally. In preparing its draft guidance, the EPA reviewed definitions from other statutes, federal programs, and industry literature, and found that many different parameters are considered by each program depending on the application. In order to enhance clarity and transparency, the EPA's draft guidance describes how the agency plans to interpret the statutory term "diesel fuels" in implementing the UIC program. As provided in the agency's draft guidance, the EPA's proposed interpretation is tightly drawn from the plain language of the statute – interpreting "diesel fuels" to mean substances with "diesel fuel" as its primary name or synonym, as found on well-recognized chemical registries.

- b: What could come under that definition in the future?

Answer: The draft guidance does not limit EPA's authority to revise its interpretation of the term "diesel fuels" in the future as necessary or appropriate if new products are identified as diesel fuels.

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- c: Does EPA have a means or process to add new substances in the future to the definition of "diesel?"

Answer: The EPA is currently focused on reviewing the more than 97,000 public comments it received on the draft guidance and on making appropriate revisions to the guidance based on these comments. The agency will work to ensure that any revised guidance takes into account the dynamic nature of oil and gas production technologies as it defines the term "diesel fuels."

- d: Are you considering revisiting the diesel fuels guidance idea? If so, will you commit to avoid an overly expansive definition?

Answer: The EPA is currently focused on reviewing the more than 97,000 public comments it received on the draft guidance and on making appropriate revisions to the guidance. Any revised guidance will reflect the public comments the EPA has received on the definition.

- 5: The President's proposed FY14 budget request for Leaking Underground Storage Tanks (LUST) represents a decline of 4.7 percent from the enacted level in FY12. Since LUST is funded from its own Trust Fund, rather than General Treasury monies, does the decline in request mean there is less of a need in this program area?

Answer: No, the decline in request does not mean there is less of a need in this program area. Many federal programs have undergone substantial reductions in the past several years to help address national budget deficits. The President's FY 2014 budget request had to make difficult choices with regard to funding the EPA's programs, including the LUST program. LUST funding is essential to maintaining a strong prevention and cleanup program. While the agency and states have made good progress in the LUST program, there is still significant work to be done. There are more than 80,000 confirmed releases that have not yet been cleaned up, with nearly 6,000 new releases reported each

year. In addition, the Energy Policy Act of 2005 has a mandate to inspect every tank at least once every three years – which serves a vital role in helping to ensure proper operation of USTs.

- 6: Pesticide registrants are willingly paying more in PRIA fees to cover a much higher percentage of the overall OPP budget. Ironically, rather than focusing on the robust scientific review of pesticides, the current EPA strategic plan suggests that the agency's goal is "to reduce pesticide use" outright– a goal not stated in any law. Rather than focusing OPP resources on the most significant programmatic challenges and potential risks to human health, EPA is redirecting significant resources and personnel to lower risk issues like school IPM. Is EPA taxing OPP resources by prioritizing the low risk programs, while underfunding the core mission of the office which is to soundly implement statutory obligations under FIFRA, FQPA, and PRIA?

Answer: The EPA's mandate under FIFRA, as amended by FQPA and PRIA, is to ensure that pesticides, when used in accordance with the label, do not cause unreasonable adverse effects on people or the environment; FIFRA gives the agency many tools to achieve that goal. By far, the largest share of OPP's resources go toward the careful scientific review of pesticides through the registration and registration review programs to ensure that pesticides meet that standard when they are initially registered and continue to meet the standard as long as they are on the market. While these programs enable us to focus on the safety of individual pesticide products, educational programs authorized under FIFRA, like school IPM and worker safety programs, also can make important contributions to the safe and effective use of pesticides.

In addition to the registration and registration review programs, PRIA-3 Registration Service Fees also are authorized for:

- EPA staff (FTEs) who evaluate covered pesticide applications, associated tolerances and corresponding risk and benefits analyses;
- Contractors who review covered pesticide applications and corresponding risk and benefits assessments;
- Advisory committees that peer review covered pesticide assessments;
- The costs of managing information, including acquisition and maintenance of computer resources (including software) used to support necessary pesticide analyses, as well as the costs of collecting, reporting, accounting, and auditing registration service fees;
- Worker protection and applicator training and for partnership grants such as those used to facilitate the adoption of IPM practices in schools and to increase adoption of reduced risk pest management practices; and
- Reduced timeframes for decisions on reduced risk pesticides.

We have put in place accounting and management systems that ensure PRIA funds are spent only on authorized activities.

- 7: Your FY 14 budget request includes \$60 million for an E-Enterprise effort at EPA to reduce the reporting on regulated entities and provide easier access to and use of environmental information. Will statutory changes be needed to effectuate these changes?

Answer: As background, E-Enterprise for the Environment is a major effort to transform and modernize how the EPA and its partners conduct business. It is a joint initiative of states and the EPA

to improve environmental outcomes and dramatically enhance service to the regulated community and the public by maximizing the use of advanced monitoring and information technologies, optimizing operations, and increasing transparency. This multi-year effort will allow us to reduce future costs for regulated entities and the states while giving the public access to more comprehensive, timely data about the environment.

At this time, the EPA anticipates that most of the changes to implement E-Enterprise can be made through changes to the EPA's regulations, program operations, policies, and information systems. By the end of FY2014, the EPA should know whether any statutory changes are necessary, perhaps similar to the statutory change that created E-Manifest.

- a: Will EPA be building this E-Enterprise itself or, like e-manifest, contracting this work out to the private sector?

Answer: E-Enterprise includes a number of complex and simultaneous projects, including streamlining regulations, enhancing information technology systems, expanding public transparency, and improving collaboration among the EPA and the states. The EPA, in collaboration with our state partners, expects to primarily use contractors to build the information technology components of E-Enterprise. The EPA generally relies on contractors to build and operate national information systems, and this is likely to be how we build out the IT components of E-Enterprise.

- b: Does EPA envision a user fee to pay for operation of this system and, if so, who will be asked to pay?

Answer: The EPA has not evaluated the need for a user fee for E-Enterprise, other than the user fee that was recently established by the new legislation creating E-Manifest which is part of E-Enterprise.

- 8: The President's proposed FY14 budget request suggests four criteria by which to view Agency operations, including: "fostering better relations with the regulated community." What are some things the Agency has in mind to succeed in this area?

Answer: The EPA strives to have collaborative working relationships with all stakeholders in the regulatory process. Working closely with the regulated community can lead to better programs that are more effective and efficient. To that end, continuously improving relations with members of the regulated community has been a long-standing goal of the Agency. Just a few of the general means available to the agency for collaboration with the regulated community on regulations include the notice and comment process of the Administrator Procedure Act, the Small Business Regulatory Enforcement Fairness Act and the use of public meetings related to regulations under development. In addition, like other Federal agencies, the EPA publishes a Semiannual Regulatory Agenda and an annual Regulatory Plan. These documents describe regulations currently under development or recently completed.

Over the years, the EPA has used both formal and informal processes for engaging stakeholders. For example, soon after the 1990 amendments, formal regulatory negotiations produced agreements on proposed rules to prevent toxic emissions from equipment leaks, set requirements for cleaner "reformulated" and "oxygenated" gasolines, and cut toxic emissions from steel industry coke ovens. Informal talks and consultation with advisory committees produced agreement on rules that control acid rain and phase out chlorofluorocarbons, which deplete the stratospheric ozone layer.

A recent example where the EPA's extensive stakeholder outreach led to successful rulemaking process is the EPA's and the Department of Transportation's National Highway Traffic Safety Administration's (NHTSA) joint rulemaking to develop the first National Program of harmonized standards to reduce greenhouse gas (GHG) emissions and improve fuel economy from cars and light trucks. These standards, broadly supported by stakeholders, will result in significant GHG reductions and oil savings and save consumers money at the pump. In developing the rule, the EPA met extensively with a wide range of stakeholders, including automakers, automotive suppliers, labor unions, consumer groups, environmental interest groups, state and local governments, and national security experts and veterans. The input from stakeholders was invaluable in ensuring that EPA had the most comprehensive set of data and other information possible to inform the proposals.

Another recent example of a successful rule resulting from the EPA's stakeholder outreach includes the GHG Reporting Rule. The EPA met individually with a diverse range of stakeholders to seek their input, including members of the power industry and related trade associations, vendors of air pollution control and monitoring technology, engineering firms, and regional transmission operators that distribute electric power. These discussions helped shape key provisions to minimize compliance burden and protect electricity reliability while meeting emission standards. For the GHG Reporting Rule, the EPA actively sought input from stakeholders through holding technical meetings. To date, the GHG Reporting Program has held nearly 500 outreach meetings, webinars, and public hearings. Based on stakeholder input, the EPA provided extensive website postings for every action taken and efforts to highlight public comment periods for rules, information collection requests, and other Federal Register notices. The EPA also made the electronic GHG reporting system available to the reporting community prior to finalizing and launching the software, resulting in over a thousand stakeholders providing valuable feedback.

The EPA plans to build upon these efforts to engage with stakeholders in the future to continue to develop efficient and effective regulatory processes.

- 9: One of the Obama Administration's new initiatives at EPA for FY 2014 is "Next Generation Compliance" and "evidence-based enforcement and compliance." What is "evidence-based" enforcement and why do you need \$4 million dollars for it?

Answer: A key theme of the President's budget is using evidence and evaluation to inform our efforts and make our programs work more effectively. The Evidence-Based Enforcement and Compliance grants program will assist states in developing and implementing innovative measures for assessing the performance of enforcement and compliance programs. They also will help the states design and implement innovative enforcement tools or approaches and measure the impact of such approaches. The grants will build capacity for collecting, using, and sharing enforcement and compliance data, and for determining the most efficient and effective practices for improving compliance. Evaluation of new approaches will help to determine those most promising for potential expansion and replication.

- 10: As part of the "Next Generation Enforcement", EPA is requesting \$2.8 million for "targeted, intelligence based" enforcement activities. From where or how does EPA intend to gather this information and in what kinds of cases will it be used?

Answer: The EPA's Criminal Enforcement program is requesting \$2.8 million to enhance its ability to gather and analyze data from commercially available databases, trade associations and their resources, and unclassified databases from other federal, state, and local law enforcement partners. The request includes contractor support to link these various data streams, including the Criminal Case Reporting System, civil enforcement and compliance data and environmental permitting and licensing data, and to create a data repository for each investigation that will support advanced search and analysis tools. This will help the criminal enforcement program to better align resources on the most egregious violations of the law that have the most significant impact on human health and the environment and understand those sectors, geographic areas, or individual companies that may have consistent patterns of violations. The EPA will focus its limited investigative resources on those companies seeking an unfair competitive advantage and on those groups of companies where statutory environmental obligations are intentionally disregarded.

This funding will also provide the EPA with critical contract support in the area of evidence data management, which is increasingly more important as the Agency focuses on the initiation of the larger, more complex cases that generate the greatest deterrence impact. An investment in evidence data management, along with training, equipment, and contractor support, will allow the EPA's investigative agents to obtain and securely manage the ever growing volume of evidence, both paper and electronic, that is involved with complex criminal investigations. In turn, this capability will enable our criminal investigators to effectively take on more complex criminal investigations involving large volumes of data obtained during an investigation.

- 11: The President's proposed FY14 budget requests \$62.7 million for the development, peer review, and finalization of risk assessments of additional TSCA work plan chemicals. How many new work plan chemicals will EPA propose in FY14? What are they?

Answer: The President's proposed FY 2014 budget request of \$62.7 million is for the entire Chemical Risk Review and Reduction program. The EPA is planning to allocate \$13.7 million and 44.8 FTE to the Screening and Assessing Chemicals work area in FY 2014, under which the development, peer review, and finalization of work plan chemical risk assessments is funded.

In June 2012, from the list of 83 Work Plan chemicals, the EPA identified 18 chemicals for which the Agency expected to initiate risk assessments during Fiscal Years 2013 and 2014. (http://www.epa.gov/oppt/existingchemicals/pubs/Work_Plan_Chemicals_Web_Final.pdf). In March 2013, the EPA announced the chemicals that the EPA will begin assessing in 2013, including 20 flame retardant chemicals and three non-flame retardant chemicals. Five of these chemicals were included on the list of 18 chemicals announced in June 2012 and one was from the Work Plan of 83 chemicals. Currently, the EPA expects to initiate assessments in FY 2014 for the remaining 13 chemicals identified for review in FY 2013 – FY 2014. They are:

• Five Chlorinated Hydrocarbons:

- 1,1-Dichloroethane
- 1,2-Dichloropropane
- 1,2-Dichloroethane
- trans-1-2-Dichloroethylene
- 1,1,2-Trichloroethane
- 4-tert-Octylphenol

- Four Fragrance Chemicals:
 - Ethanone, 1-(1,2,3,4,5,6,7,8-octahydro- 2,3,8,8-tetramethyl-2-naphthalenyl)-
 - Ethanone, 1-(1,2,3,4,5,6,7,8-octahydro- 2,3,5,5-tetramethyl-2-naphthalenyl)-
 - Ethanone, 1-(1,2,3,5,6,7,8,8a-octahydro- 2,3,8,8-tetramethyl-2-naphthalenyl)-
 - Ethanone, 1-(1,2,3,4,6,7,8,8a-octahydro- 2,3,8,8-tetramethyl-2-naphthalenyl)-
 - 4-sec-Butyl-2,6-di-tert-butylphenol
 - 2,4,6-Tri-tert-butylphenol
 - P,p'-Oxybis(benzenesulfonyl hydrazide)
- 12: Regarding the Endocrine Disruptor Screening Program, what percentage of chemical screens used in the program are not validated?

Answer: The U.S. Environmental Protection Agency has validated all of the eleven assays that comprise the Tier 1 screening battery. The agency has validated one of the five assays that comprise the Tier 2 tests.

a: How many more need to be validated?

Answer: Four of the Tier 2 test assays need to be validated. The FIFRA SAP held in June 25-28, 2013 was focused on receiving input from the panel on the validation effort on the four ecotoxicity tests and the next steps will involve considering the SAP recommendations, developing the test guidelines, and standard evaluation procedures. (<https://federalregister.gov/a/2013-07641>.)

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90 days after the June 25-28th meeting. The meeting minutes will be posted on the FIFRA SAP Web site or may be obtained from the OPP Docket or at <http://www.regulations.gov>.

b: How many tests are validated?

Answer: The agency has validated all eleven assays that comprise the Tier 1 screening battery. The agency has validated one of the five assays that comprise the Tier 2 tests.

c: What role is EPA ascribing to adverse effects from its screening data vs. testing data?

Answer: The Endocrine Disruptor Screening Program is a two-tiered screening and testing program. Tier 1 screening identifies chemicals that have the potential to interact with the endocrine system, while Tier 2 testing will confirm whether the chemical interacts with the endocrine system, and provide data to support a risk assessment.

While Tier 1 screening level information may provide information on some adverse effects, the study designs limit the ability to quantitatively detect effects on the endocrine system that may lead to adversity. Tier 2 testing consists of longer-term, repeat dosing, multi-generational studies that are designed to detect more subtle and sensitive adverse endocrine effects.

- 13: EPA's proposed budget for FY14 mentions plans to transform the enforcement and compliance program.

a: Does this mean that EPA will be restructuring its workforce?

Answer: The EPA's FY 2014 budget request continues to invest resources in high priority areas with the greatest impact on public health, while reducing resources devoted to lower priority areas. In light of current budget constraints and to make the program more efficient and effective, the EPA will continue to examine the areas most appropriate for reduction while implementing new enforcement approaches such as Next Generation Compliance.

In recent years, the enforcement program has been engaged in priority setting exercises and has offered limited Early Out / Buy Out opportunities to employees in order to realize efficiencies, ensure that the program has the necessary skill mix to implement new approaches, and continues its vigorous enforcement of the nation's environmental laws to protect public health and the environment. This restructuring of positions and use of new approaches reflects the modern era of environmental protection which increasingly relies on use of advanced monitoring technology and other tools.

The Next Generation Compliance approach includes multiple components: determining the role and use of modern monitoring technology to detect pollution problems; eliminating paper based reporting to enhance government efficiency and reduce paperwork burden; enhancing transparency so the public is aware of facility and government environmental performance; implementing innovative enforcement approaches; and structuring our regulations to be more effective and achieve higher compliance. Next Generation Compliance is fully consistent with and a key component of the agency's new E-Enterprise initiative. The wider E-Enterprise initiative aims at reducing burden on industry, improving services for the regulated community and the public, and transforming the way environmental protection work is done by the EPA, states, and Tribes in the future.

b: Are national enforcement initiatives or other criminal and civil enforcement being driven by the program offices, DOJ, or Office of Enforcement and Compliance Assurance?

Answer: The EPA's Office of Enforcement and Compliance Assurance (OECA) aggressively addresses pollution problems that make a difference in communities through vigorous civil and criminal enforcement that targets the most serious water, air and chemical hazards. In support of those efforts, OECA reevaluates its National Enforcement Initiatives every three years to assure that federal enforcement resources are focused on the most important environmental problems where noncompliance is a significant contributing factor, and where federal enforcement attention can have a significant impact.

The National Enforcement Initiatives are developed through an extensive collaborative effort involving states, the EPA Regions, our federal partners, and the public. Comments and inputs are sought through stakeholder meetings, OECA's National Program Manager's Guidance (to regions and states) and a Federal Register Notice (to solicit input on the selection of the initiatives). The EPA's criminal enforcement program identifies and investigates cases with knowing, intentional, or criminally negligent violations of our nation's environmental laws. The program focuses on cases with significant environmental and human health impacts, including death and serious injury.

After a collaborative comment process, OECA recently announced the decision to continue the current set of FY 2011-2013 National Enforcement Initiatives into FY 2014-2016. These initiatives focus on:

- Keeping Raw Sewage and Contaminated Stormwater Out of Our Nation's Waters
- Preventing Animal Waste from Contaminating Surface and Ground Waters
- Cutting Toxic Air Pollution that Affects Communities' Health
- Reducing Widespread Air Pollution from the Largest Sources, Especially the Coal-fired Utility, Cement, Glass, and Acid Sectors
- Reducing Pollution from Mineral Processing Operations
- Assuring Energy Extraction Sector Compliance with Environmental Laws

14: Does your proposed Superfund budget, include funds for starting work on any new sites? Are there any you expect to complete?

Answer: The EPA is continuing to fund Superfund projects started in prior years. The Agency places a priority on continuing to fund ongoing work to avoid demobilization and other costs associated with stopping work. Because of funding constraints, including those resulting from sequester, the EPA will only be able to fund a limited number of site assessment projects needed to determine whether a site will qualify for the National Priorities List (NPL). For sites on the NPL, the EPA will have to delay certain in-depth investigations needed to develop a cleanup remedy decision, and, where a decision has been made, not all remedy designs needed for construction projects will be funded this year. For sites ready for construction, we anticipate being only able to fund a small number of projects depending on availability of funds. As a result, by the end of Fiscal Year 2014 there may be as many as 40-45 new construction projects waiting for EPA funding. The Agency does anticipate completing remedy construction at 15 Superfund sites. The EPA will continue to focus on completing individual project phases (site assessments, investigations, designs and construction) consistent with the Integrated Cleanup Initiative (ICI) started three years ago. However the overall pace of the remedial cleanup program will continue to slow due to funding constraints.

15: EPA is seeking to justify its costly proposed 316(b) rule, which would affect more than 1,260 power plants and industrial facilities nationwide, on the basis of a public opinion survey asking "how much" a random group of individuals would be willing to pay to reduce fish losses at intakes. This willingness-to-pay approach to determining "benefits" contrasts sharply with the far more traditional approach used by EPA in its earlier 316(b) rulemakings. The earlier analyses relied on actual market prices and costs incurred by individuals, rather than hypothetical questions in a public survey. The "willingness-to-pay" or "stated preference" survey is clearly intended to increase the anticipated benefits of the proposed rule. Yet such stated preference surveys are notoriously difficult to design and implement and often are very unreliable. Using such unreliable benefit estimates will inappropriately lead to cooling water controls that are neither necessary nor cost beneficial and that will not deliver the anticipated benefits but will materially affect compliance and consumer costs. Given all these problems, is EPA going to withdraw the survey and clarify that the survey and its results are inappropriate to use in implementing the final rule?

Answer: Conventional benefits analyses are generally not able to include all monetary estimates for all categories of environmental benefits. Stated preference surveys are a tool that can address categories of benefits that would otherwise not be monetized. The EPA did receive many comments

on the stated preference survey, including both supportive and critical comments regarding the stated preference survey methodology. The EPA is working through all of the comments received and will make a determination as to the form of the final benefits analysis only after obtaining further independent professional judgment concerning the survey and suggestions for possible future improvements to the survey from the EPA's Science Advisory Board.

The Honorable Phil Gingrey

- 1: Each year since 2003, EPA has issued a notice to receive applications for a Critical Use Exemption (CUE) for methyl bromide under the Montreal Protocol. In announcing the final CUE allocation decisions, the agency has identified the commodities eligible to use methyl bromide under a CUE, as well as the conditions, such as the presence of weeds or plant pests that existed that supported the need for the CUE. These uses have included, for example, use by cucurbit growers, eggplant growers, pepper growers, strawberry growers, sweet potato growers, tomato growers, turfgrass producers and users, forest seedling growers and nurseries, stone fruit, table grapes, raisins, walnut and almond growers, ornamental growers, U.S. millers of rice, wheat and corn products, and California handlers of walnuts, beans, dried plums, raisins, and pistachios. Since 2011, the EPA has essentially reduced or rejected the CUE applications by these user groups. It has done that despite the fact that the potential tools that EPA maintains are available in lieu of methyl bromide have not increased, but have actually decreased or faced significant regulatory challenges of their own, while the weeds or plant pest complexes continue to be a problem.
- a: In view of the significant potential adverse economic and job impacts on those applicants in the agricultural and food production sectors whose applications have been rejected or had their requests substantially reduced, will EPA consider changing its approach and recognize the continuing substantial need for the product under the CUE process?

Answer: Under the Montreal Protocol on Substances that Deplete the Ozone Layer and the Clean Air Act, production and import of methyl bromide, other than for exempted uses, has been banned since 2005. The Montreal Protocol and Clean Air Act authorize critical use exemptions when the Parties to the Montreal Protocol agree that a demonstration has been made for a specific use that: there are no technically and economically feasible alternatives to methyl bromide, and further that all technically and economically feasible steps have been taken to minimize the critical use and any associated emission of methyl bromide; that methyl bromide is not available in sufficient quantity and quality from existing stocks of banked or recycled methyl bromide; and that research programs are in place to develop and deploy alternatives and substitutes to methyl bromide.

The Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA), and the Department of State have worked with agricultural stakeholders for over a decade to ensure that we put forward the best possible annual nomination to the Parties to the Montreal Protocol, consistent with the requirements of the Montreal Protocol – a nomination that has carefully examined the impacts that would flow from not having methyl bromide and that meets the critical use criteria. We then must defend those nominations at international meetings. We have continued to look for ways to ensure we have complete, up-to-date information from growers for the nomination, and to make the nomination process more transparent. Those efforts have certainly improved our ability to

document our requests so that they are successful and we will continue to look for other means of improving the process in the future.

For 2015, the U.S. government nominated California strawberries, dried cured pork products, and fresh dates. This nomination resulted from a rigorous technical review as government partners met with agricultural stakeholders, researchers and fumigators, and evaluated data and current research to establish an internationally defensible basis for our nominations.

- b: Is EPA open to receiving supplemental requests for methyl bromide, and if so, will the agency fairly and reasonably evaluate such requests?

Answer: Yes, the EPA is open to receiving and reviewing supplemental requests for methyl bromide critical uses. Supplemental requests serve as an important flexibility mechanism in the Montreal Protocol treaty's process to address changes in national circumstances or new data that affect the transition to alternatives that may have occurred since the initial nomination was submitted. The EPA will work with stakeholders to ensure that there are no technical challenges or market implications that have not been fully considered, and will explore the variety of tools available to us to address documented concerns in a timely way. If warranted by additional assessment, the U.S. government may pursue supplemental CUEs for 2015.

The Honorable Ralph M. Hall

- 1: It is our understanding that EPA has been enforcing the requirements of the NSPS, Subpart UUU for Calciners and Dryers in Mineral Processing Industries against foundries, despite the fact that the agency never intended to include foundries as a source category for this rule. In April 2008, EPA proposed regulatory language to specifically exempt foundries from the requirements of Subpart UUU, but has never taken final action on the proposed regulatory language. Why has EPA failed to promulgate the exemption for foundries from NSPS, Subpart UUU consistent with the original intent of the rule? When can we expect EPA to take final action on its proposal?

Answer: The New Source Performance Standards for Calciners and Dryers in the Mineral Industries, commonly referred to as NSPS Subpart UUU, applies to foundries which process industrial sand in calciners and dryers. As early as 1986, the EPA stated in the preamble to the Notice of Proposed Rulemaking that the rule "would apply to new, modified, and reconstructed calciners and dryers at mineral processing plants." In both the proposed and final rules, the EPA defined a mineral processing plant as "any facility that processes or produces any of the following minerals..." In the preamble and final rule, the EPA listed "industrial sand" as one of the listed minerals, and broadly defined the affected facility, "dryer," as "the equipment used to remove uncombined (free) water from mineral material through direct or indirect heating." Furthermore, based on our reading of the regulatory text, the EPA issued several applicability determinations, beginning in 1993, that foundries were subject to subpart UUU. As a result, where foundries process the listed mineral "industrial sand" they meet the definition of "mineral processing plant" and the "calciners and dryers" that are used by these foundries to process the industrial sand are subject to NSPS Subpart UUU. On April 22, 2008, as part of our proposed amendments to the NSPS for Nonmetallic Mineral Processing Plants (subpart OOO), even though this is a different source category, we used this opportunity to request public comments on the applicability of subpart UUU to sand and

reclamation processes at metal foundries. The proposal also noted that the request for comments on subpart UUU is not a full NSPS review pursuant to section 111(b)(1)(B) of the Clean Air Act.

After further consideration, we decided not to take final action on the exemption for subpart UUU when we finalized the amendments to subpart OOO in 2009. Because subpart UUU deals with a different industry sector than subpart OOO, we believed that the general public did not have adequate notice of the proposed change, which we thought limited our ability to fully evaluate the issue. We further believed that this issue would most appropriately be addressed through a full review of subpart UUU. When we undertake such a review, we will ensure adequate notice and consideration of this issue.

- 2: Why is EPA enforcing the provisions of Subpart UUU against foundries when the agency never intended to include foundries as a source category for Subpart UUU?

Answer: The New Source Performance Standards for Calciners and Dryers in the Mineral Industries, commonly referred to as NSPS Subpart UUU, applies to foundries which process industrial sand in calciners and dryers. As early as 1986, the EPA stated in the preamble to the Notice of Proposed Rulemaking that the rule "would apply to new, modified, and reconstructed calciners and dryers at mineral processing plants." In both the proposed and final rules, the EPA defined a mineral processing plant as "any facility that processes or produces any of the following minerals..." In the preamble and final rule, the EPA listed "industrial sand" as one of the listed minerals, and broadly defined the affected facility, "dryer," as "the equipment used to remove uncombined (free) water from mineral material through direct or indirect heating." As a result, where foundries process the listed mineral "industrial sand" they meet the definition of "mineral processing plant" and the "calciners and dryers" that are used by these foundries to process the industrial sand are subject to NSPS Subpart UUU.

Consistent with the regulatory determination, the EPA is currently taking appropriate enforcement action in Region 5 for identified violations of NSPS Subpart UUU at subject foundries. The violations were identified in compliance evaluations conducted by the Region at 39 of the 138 iron and steel foundries. Although a total of eleven enforcement cases resulted from the 39 evaluations, only three of the eleven cases included violations for Subpart UUU. To remedy the currently identified Subpart UUU violations, the three affected facilities have been required to conduct additional testing. No penalties have been assessed for the NSPS Subpart UUU violations.

The Honorable Joe Barton

- 1: Gina McCarthy recently stated in her written responses to the Senate Environment and Public Works committee, "I can conceive of circumstances where EPA has disagreed with State's approach on policy grounds but did not intervene to override the state because the state met the relevant legal criteria."

- a: How do you reconcile her statement with EPA's disapproval of the Texas Commission on Environmental Quality's Flexible Permit Program?

Answer: We do not agree with any suggestion that our disapproval of that program was based on disagreement with the State's policy approach. To the contrary, after carefully considering the State's submission, we concluded that the program did not meet the relevant regulatory and legal

criteria for program approval. Although the Fifth Circuit found that the record we developed in support of the disapproval was inadequate, our disapproval was based on the program's legal deficiencies, not any policy disagreements with Texas.

- b: In August, 2012, the Fifth Circuit Court of Appeals vacated EPA's final rule disapproving the Texas Flexible Permit Program, finding that EPA exceeded its statutory authority in rejecting the Texas Flexible Permit Program sixteen years tardy, and had transgressed the Clean Air Act's delineated boundaries of cooperative federalism. What is the status of the remand of EPA's disapproval of the Flexible Permit Program?

Answer: We are currently engaged in discussions with Texas on this matter.

- 2: Gina McCarthy indicated that she believes EPA's Office of Acquisition Management was involved in the decision to force Battelle to drop their contract with the Association of Air Pollution Control Agencies (AAPCA).

- a: Did EPA present an ultimatum to Battelle to terminate their contract with AAPCA? If so, please provide justification for EPA's actions. In doing so, please explain the criteria used and list any contracts between Battelle and EPA that may have been judged to present a conflict of interest.

Answer: Pursuant to the requirements of Federal and Agency Acquisition Regulation, and the terms and conditions of Battelle's contract with the EPA regarding organizational conflicts of interest, Battelle discussed the matter with Agency officials and Battelle independently determined that it needed to terminate its contract with the AAPCA. The EPA neither directed nor suggested that Battelle take that action.

- b: What are the larger policy implications of prohibiting a third party contractor from entering into a contract with an environmental, multi-jurisdictional organization for purely administrative and logistical purposes?

Answer: The EPA relies heavily on private sector contractors to support the Agency's mission. The EPA has not prohibited contractors from entering into contracts with multistate organizations. However, because contractors also do work for other entities that the EPA regulates, contractors could be confronted with conflicts of interest that could impair their objectivity when performing work for the EPA and, thus, compromise the integrity of the EPA's mission.

The Honorable Lee Terry

- 1: Is EPA considering replacing the original impingement proposal with a more flexible approach that pre-approves multiple technology options, allows facility owners to propose alternatives to those options, and provides site-specific relief where there are de minimis impingements or entrainment impacts on fishery resources or costs of additional measures would outweigh benefits?

Answer: The EPA is working to review the comments it received on its 2011 proposed rule and 2012 Notice of Data Availability as it works to develop final standards. The EPA received significant

comments regarding ways in which the impingement mortality standard could be modified to allow site-specific variability to be taken into account, and noted these flexibilities in the June 11, 2012 Notice of Data Availability. The EPA also is considering how a de minimis provision could be added to the rule.

- 2: EPA's proposed 316(b) rule, EPA has not required existing facilities to retrofit "closed cycle" systems such as cooling towers or cooling ponds if the facilities do not already have such systems, because such retrofits are not generally necessary, feasible, or cost effective. At the same time, facilities that do have closed-cycle systems have long been viewed as satisfying the requirements of section 316(b). Yet in the proposed rule, EPA has defined "closed cycle" cooling much more narrowly for existing facilities than EPA did for new facilities several years ago, thereby excluding a number of facilities. And even for the facilities that qualify, EPA is still imposing new study and impingement requirements. In the final rule that is due this summer, is EPA considering a broader definition of closed-cycle cooling and measures that more fully view these facilities as compliant? In the final rule that is due this summer, is EPA considering a broader definition of closed-cycle cooling and measures that more fully view these facilities as compliant?

Answer: The EPA received significant comments on the proposed definition of closed cycle outlined in the agency's 2011 proposed standards, including comments noting areas in which the agency's 2001 definition differed from its proposed 2011 definition. The EPA intends to address these comments with the final rule.

The Honorable Tim Murphy

1: At last year's budget hearing (Feb. 2012), Administrator Jackson committed to posting notices of intent to sue and rulemaking petitions on the agency's website, and EPA has recently begun to post such notices on its website. You testified at this year's budget hearing that EPA would also begin posting those rulemaking petitions.

- a. What are EPA's plans with regard to posting rulemaking petitions?
- b. When and where will they be accessible on EPA's website?
- c. Will EPA commit to timely updating the website to ensure public access to the rulemaking petitions received by the agency?

Answer: The EPA has made available on its website petitions for rulemaking received by the Agency since January 1, 2013. The petitions for the rulemaking web page are available at <http://www2.epa.gov/aboutepa/petitions-rulemaking>. Additional petitions will be added on an ongoing basis as they are received or identified.

The Honorable Robert E. Latta

1: In your testimony, you highlight the fact that supporting states' efforts as the primary implementers of environmental programs is an EPA priority. Yet, through the EPA's budget, it is very clear that the federal agency intends to have a direct role in the regulation of hydraulic fracturing, despite proven state programs, including the very successful one in my

state of Ohio under the direction of the Ohio Department of Natural Resources. Do you believe that state regulatory agencies are not capable of effectively regulating hydraulic fracturing?

Answer: The EPA recognizes that many states already have regulations in place to address hydraulic fracturing, more specifically, programs that are designed to protect underground sources of drinking water. With respect to drinking water, the 2005 Energy Policy Act's amendments to the Safe Drinking Water Act (SDWA) established that hydraulic fracturing operations using diesel fuel as a component of fracking fluids are subject to regulation under the federal Underground Injection Control (UIC) program. Under the UIC program, these wells are regulated as "Class II" wells. Based on data in the FracFocus database indicating that only 2% of hydraulic fracturing operations use diesel fuels, the application of these regulations to hydraulic fracturing operations is limited. The UIC regulations are intended to create a national minimum floor for protecting Underground Sources of Drinking Water. Many states with hydraulic fracturing operations have obtained primacy under SDWA to implement the federal program within their borders, including the Class II UIC program. The EPA fully expects that States will continue to be the primary implementer of the UIC program with respect to these wells. We continue to work closely with our State partners to ensure that shale gas resources are responsibly developed.

a: What evidence exists that would justify EPA interference in state regulated hydraulic fracturing operations?

Answer: As mentioned above, SDWA mandates regulation of underground injection, including DFHF operations; however, most States with hydraulic fracturing activities have long been approved to implement their State UIC Class II program in lieu of the EPA. We are closely collaborating with our State partners through the State Review of Oil and Natural Gas Environmental Regulations (STRONGER) and other efforts to ensure responsible development of shale gas resources and we will continue outreach with the states.

b: What is EPA's jurisdictional hook, given the Safe Drinking Water Act's exemption to regulate hydraulic fracturing?

Answer: In the 2005 Energy Policy Act, Congress revised the SDWA definition of "underground injection" to specifically exclude from UIC regulation the "underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities." (SDWA Section 1421(d)(1)(B)(ii)). Through this amendment, Congress excluded many hydraulic fracturing operations from regulation under UIC programs, but it specifically did not extend this exclusion to hydraulic fracturing operations using diesel fuels. By limiting the exclusion in this fashion, Congress made clear that hydraulic fracturing operations using diesel fuels remain subject to regulation under the UIC programs pursuant to the SDWA.

2: As you move forward on greenhouse gas emissions regulations for both new and existing sources, how will you assess the costs?

a. Will you consider the impact these regulations will have on manufacturing jobs in your cost-benefit analysis?

Answer: Since 2009, the EPA has focused increased attention on consideration and, where data and methods permit, analysis of potential employment effects as part of the routine regulatory impact analyses (RIAs) conducted for each major rule. In the RIA for the April 2012 proposed new source performance standards for new power plants, we found that projected new electricity generating units would be in compliance with the proposed standard even in the absence of the regulation. This projection is consistent with a finding of no discernible incremental effects of the proposed regulation on employment. Consistent with our standard practice, we will continue to assess potential employment effects in the context of regulatory impact analyses of our major rules.

b. Will you consider how these regulations will impact energy costs?

Answer: Yes. This analysis is a routine part of the RIA conducted for regulations impacting the energy sector. In the RIA for the April 2012 proposed new source performance standards for new power plants, we found that projected new electricity generating units would be in compliance with the proposed standard even in the absence of the regulation. This projection is consistent with a finding of no discernible incremental effects of the proposed regulation on energy costs. Consistent with our standard practice, we will continue to assess potential energy price impacts in the context of regulatory impact analyses of our major rules.

c. Do you consider hiring an employee to solely work on compliance with regulations as beneficial as hiring an employee to work within normal business operations?

Answer: Compliance activities that result from air pollution regulations address a consequence of normal business operations, and are in fact producing a real output: cleaner air and improved health. Jobs, including those in the private sector, that support the implementation of and compliance with air quality regulations contribute to the positive impact clean air programs have on the health and welfare of Americans and also on the U.S. economy by reducing the number of work days lost to air pollution-related health effects across the economy, with resulting improvements in the productivity of American workers that enhance the global competitiveness of American workers and the firms that employ them. In a March 2011 report that studied the 1990 Clean Air Act amendments and the effects of associated programs on the economy, public health, and the environment between 1990 and 2020, the EPA estimated that the benefits of these clean air programs will exceed costs by a factor of more than 30 to one in 2020.

3: Does EPA keep track of compliance costs once a rule is implemented? If not, please explain why.

Answer: The EPA conducts benefit-cost analyses of all its significant rules and regulations and strives to use the best available information to conduct its analyses. To evaluate the uncertainties related to compliance cost estimates, the EPA's National Center for Environmental Economics (NCEE) is conducting a retrospective cost study (RCS), examining selected rules as case-studies. The RCS is attempting to identify reasons for any systematic differences between the Agency's compliance cost estimates used in regulatory impact analyses (RIAs) and estimates of the realized compliance costs. The long-term goal of this project is to increase the accuracy of the EPA's compliance costs estimates, which in turn will help improve the Agency's benefit-cost analyses.

Detailed tracking of the EPA-related compliance costs for every rule would require a detailed survey of regulated entities of their investments in pollution abatement equipment and pollution

abatement operating costs. Supplying this type of cost data can be seen as burdensome by the regulated firms as it requires them to isolate the incremental cost of the regulation and to fill out associated paperwork. Furthermore, firms usually consider this type of information confidential business information.

As one example of the challenges in collecting post-compliance costs, the EPA conducted a FY 2011 survey of the pulp and paper industry to collect information on what technologies were put in place to comply with Clean Air Act regulations (one New Source Performance Standards rule and two National Emission Standards for Hazardous Air Pollutants rules), including compliance costs. To reduce potential burden, the compliance costs portion of the survey was made voluntary. While 350 facilities responded to the information collection request (a 100% response rate), only one plant voluntarily responded with any compliance cost information.

4: How much did covered entities spend complying with EPA regulations last year?

Answer: The Agency does not routinely track costs of compliance post-rule promulgation. Therefore, no data are available to address cost of compliance with the EPA's regulations in 2012. As discussed in the response to the previous question, the Agency is conducting a retrospective cost analyses and will make available any data that is responsive to your question when it is completed.

For reference, the EPA's National Center on Environmental Economics (NCEE) completed and submitted "A Retrospective Cost Study of the Costs of EPA Regulations: An Interim Report of Five Case Studies" to its Science Advisory Board's (SAB) Environmental Economics Advisory Committee for review in March 2012. The primary purpose of the Interim report was to demonstrate the weight of evidence methodology using a case study approach developed for examining costs retrospectively.

The full text of the Interim report is available here:

[http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/3A2CA322F56386F852577BD0068C654/\\$File/Retropective+Cost+Study+3-30-12.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/3A2CA322F56386F852577BD0068C654/$File/Retropective+Cost+Study+3-30-12.pdf)

The full text of the SAB Advisory Report, in response to the Interim report, is available here:

[http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/2596DA311EE5DBF385257B4A00691B3C/\\$File/EPA-SAB-13-002-unsigned.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/2596DA311EE5DBF385257B4A00691B3C/$File/EPA-SAB-13-002-unsigned.pdf)

NCEE is preparing a final report anticipated for release later this year, and has begun retrospective analyses on additional rules. Case studies from this next phase will be distributed as they are completed.

5: Many Ohio producers are taking an active role in mitigating nutrient run-off by voluntarily enrolling in the "4R Nutrient Stewardship" program which stands for using the right fertilizer source, at the right rate, at the right time, and with the right placement. Ohio's leading industry representatives have developed this working closely with state agencies.

a: Will the agency defer to voluntary, industry-led programs or will the agency issue formal regulations regarding nutrient management?

Answer: The EPA does not anticipate developing new regulations regarding nutrient management at this time, and will continue to implement existing programs and to emphasize voluntary program approaches and close collaboration with agricultural producers, states, the U.S. Department of Agriculture (USDA), and other partners to encourage effective nutrient management practices to protect water quality.

Through the Clean Water Act Section 319 Nonpoint Source Program, the EPA works with states as they implement nonpoint source programs. Good nutrient management is a key priority of this program and we recognize the importance of 4R's for successful nutrient management planning. Many Section 319 success stories show that water quality improvement can be tied to good nutrient management and by coordinating with other entities to collectively gain improvements in water quality. Many of these success stories report engagement and coordination with USDA's Natural Resources Conservation Service (NRCS) at the local level, who can in turn work with landowners as they voluntarily implement the 4R's on their cropland. The EPA supports the USDA-NRCS Practice Standard Conservation Code 590 for Nutrient Management as the baseline for nutrient management nationally. This conservation practice standard is based upon the 4R Nutrient Stewardship principles of the right fertilizer source, at the right rate, at the right time, and with the right placement. Industry has been a leader in talking to the agricultural community about the importance of the 4Rs of nutrient management. The EPA is aware of industry efforts, such as the "Keep it for the Crop (KIC)" effort in Illinois, which continue to share the message of the 4R's with producers and stakeholders. The EPA also understands the importance of educational training on the 4R's for producers through the NRCS 590 Nutrient Management Standard/4R Nutrient Stewardship Educational Module in development by TFI, NRCS, Iowa State University, and the International Plant Nutrition Institute (IPNI). This effort will educate producers, as well as NRCS employees, fertilizer retailers, and service providers (see <http://www.nutrientstewardship.com/4r-training>).

b: Have you engaged stakeholders regarding this issue? If so, please provide a list of EPA stakeholder outreach efforts.

Answer: Yes, the agency continues to actively engage stakeholders regarding nutrient management efforts. Many of these efforts are guided by the EPA's March 2011 memorandum to its Regional offices in which the agency reaffirmed its commitment to partnering with states and collaborating with stakeholders to make greater progress in accelerating the reduction of nitrogen and phosphorus loadings to our nation's waters. Examples of stakeholder outreach efforts include:

- Through the EPA Regions, the EPA is coordinating with and supporting states as they develop and implement nutrient reduction strategies, which generally include managing nutrients in the agricultural landscape. The EPA is the co-chair of the Hypoxia Task Force (HTF) and supports HTF member outreach efforts on the 4R's of nutrient management. The EPA is working with USDA-NRCS as they implement the Mississippi River Basin Initiative (MRBI), the Gulf of Mexico Initiative (GoMI), and the National Water Quality Initiative (NWQI). Nutrient management is a core component of the conservation systems that these programs support.

The Honorable Bill Cassidy

- 1: Recently, you stated that EPA is embracing the spirit as well as the letter of the NAS recommendations to improve the IRIS program. Yet, the recently revised IRIS methanol assessment, which was released last week, EPA categorizes 15 of 19 'short-term' recommendations as being only partially implemented and only 4 short-term recommendations are listed as implemented. EPA's description for implementing the more substantive recommendations, suggests progress that is minimal at best. What can EPA show to provide true evidence that substantive changes are being made?

Answer: The National Academies' National Research Council (NRC) noted in the "Roadmap for Revision" in their formaldehyde review report that the recommendations they were making about improving the development of IRIS assessments "would involve a multi-year process and extensive effort." Over the past two years, the EPA has been working hard to incorporate the NRC recommendations. As stated in the EPA's 2012 IRIS Progress Report to Congress, the IRIS Program is following the NRC advice and incorporating its recommendations using a phased approach. At this point, all draft IRIS assessments that are released will reflect significant improvements to the document structure which increase transparency in presentation of methods and explanation of the rationale and decision criteria for selecting data and making scientific conclusions. Each newly released draft or final IRIS assessment now includes a summary table of the NRC recommendations and the EPA's actions to implement them. The revised draft methanol assessment (released to the public in May 2013), for example, was shorter, more concise, and visual – providing tables and graphs of data – and implements the transparency changes cited above. Full and robust implementation of the NRC recommendations by the IRIS Program will continue as an evolving process with input and feedback from the public, stakeholders, the NRC committee that is currently reviewing the IRIS assessment development process, and the newly formed Science Advisory Board (SAB) Chemical Assessment Advisory Committee (CAAC).

As further evidence of the EPA's improvements to the IRIS Program and IRIS assessments, the EPA held a public IRIS Stakeholder Meeting (in person and by webinar) on November 13, 2012. The purpose of the meeting was to hear public views on the IRIS Program. More than 450 people participated and provided input. The IRIS Program also recently convened a public stakeholder meeting to receive input on the IRIS assessment of inorganic arsenic, which the EPA is in the early stages of drafting. Based on input received at this meeting, the EPA expanded the scope of the assessment to include both the oral and inhalation routes of exposure.

Additionally, in early 2013, the EPA provided materials to the NRC committee charged with reviewing the IRIS assessment development process. These materials, titled "Part 1: Status of implementation of recommendations" and "Part 2: Chemical-Specific Examples," provide an update on the EPA's progress in addressing the NRC recommendations related to IRIS. The documents are publicly available at <http://epa.gov/iris/iris-nrc.htm>. More recently, the SAB CAAC held their first public meeting in April 2013. At this meeting, they were briefed on the IRIS Program, including changes being made to address the NRC recommendations. The SAB CAAC will begin reviewing draft IRIS assessments later this year.

The IRIS Program also will convene workshops on various scientific issues later this year. Some of these workshops are relevant to the NRC recommendations. For example, a fall workshop will focus on systematic review. This meeting will be open to the public and will include discussions about

approaches for and steps taken in conducting systematic review, such as evaluating individual studies, approaches for synthesizing evidence within a particular discipline, and integrating evidence across different disciplines to draw scientific conclusions and causality determinations.

Overall, the activities described above provide true evidence of the IRIS Program's efforts to implement the NRC recommendations.

- 2: How long will it be before released IRIS assessments have fully, not partially, implemented the important NAS recommendations?

Answer: As noted in the 2012 IRIS Progress Report to Congress, the National Academies' National Research Council (NRC) recognized that fully implementing all of their recommendations would *"involve a multi-year process and extensive effort."* All draft IRIS assessments that are released will reflect significant improvements to the document structure to improve transparency. The methods, rationale, and decision criteria for selecting data and making scientific conclusions are transparent and clearly presented. The revised draft methanol assessment, for example, is shorter, more concise, and visual – providing tables and graphs of data – and implements the transparency changes cited above. In 2013, the EPA anticipates releasing draft IRIS assessments that have fully implemented all of the short-term NRC recommendations. Full and robust implementation of all of the NRC recommendations by the IRIS Program will continue as an evolving process with input and feedback from the public, stakeholders, the NRC committee that is currently reviewing the IRIS assessment development process, and the newly formed Science Advisory Board (SAB) Chemical Assessment Advisory Committee (CAAC).

In early 2013, the EPA provided materials to the NRC committee charged with reviewing the IRIS assessment development process. These materials, titled "Part 1: Status of implementation of recommendations" and "Part 2: Chemical-Specific Examples," provide an update on the EPA's progress in addressing the NRC recommendations related to IRIS. These documents are publicly available at <http://epa.gov/iris/iris-nrc.htm>. The newly formed SAB CAAC held their first public meeting in April 2013. At this meeting, they were briefed on the IRIS Program, including changes being made in the Program to address the NRC recommendations. This committee will begin reviewing draft IRIS assessments later this year. Additionally, the IRIS Program will convene workshops on various scientific issues later this year. Some of these workshops are relevant to the NRC recommendations. For example, a fall 2013 workshop will focus on systematic review. This meeting will be open to the public and will include discussions about approaches for and steps taken in conducting systematic review, such as evaluating individual studies, approaches for synthesizing evidence within a particular discipline, and integrating evidence across different disciplines to draw scientific conclusions and causality determinations.

- 3: How many more assessments will be released that are not consistent with the NAS recommendations?

Answer: Over the past two years, the EPA has been working hard to incorporate the NRC recommendations related to the development of IRIS assessments. The National Academies' National Research Council (NRC) noted in the "Roadmap for Revision" in their formaldehyde review report, that the recommendations they were making about improving the development of IRIS assessments *"would involve a multi-year process and extensive effort."* As stated in the EPA's 2012 IRIS Progress Report to Congress, the IRIS Program is following the NRC advice and incorporating

their recommendations using a phased approach. At this point, all draft assessments that are released will reflect significant improvements to the document structure. Specifically, they will include increased transparency in presentation of methods and explanation of the rationale and decision criteria for selecting data and making scientific conclusions. Each newly released draft or final IRIS assessment now includes a summary table of the NRC recommendations and the EPA's actions to implement them. A few assessments that were undergoing peer review at the time of the NRC recommendations will retain some earlier formatting aspects, in order to maintain fidelity with the assessment that was peer reviewed, but these assessments also demonstrate the above significant improvements by transparently describing the basis for assessment conclusions. The revised draft methanol assessment, for example, is shorter, more concise, and visual – providing tables and graphs of data – and implements the transparency changes cited above. The draft IRIS assessment for benzo(a)pyrene, which will be released for public comment and external peer review in the coming months, represents Phase 2 of our implementing the NRC recommendations by fully addressing all of the NRC's short-term recommendations. Full and robust implementation by the IRIS Program will continue as an evolving process with input and feedback from the public, stakeholders, the NRC committee reviewing the IRIS assessment development process, and the newly formed Science Advisory Board Chemical Assessment Advisory Committee (CAAC).

A full description of the IRIS Program's progress in addressing the NRC recommendations can be found in documents the EPA provided to the NRC earlier in 2013. These materials, titled "Part 1: Status of Implementation of recommendations" and "Part 2: Chemical-Specific Examples," provide an update on the EPA's progress in addressing the NRC recommendations related to IRIS. They are publicly available at <http://epa.gov/iris/iris-nrc.htm>.

The Honorable Cory Gardner

- 1: Do you believe the Colorado Regional Haze State Implementation Plan (SIP) serves as a model for how states and the federal government should collaborate to reduce regional haze in the West? If so, will EPA be working with the Department of Justice to vigorously defend Colorado's Regional Haze SIP in the 10th Circuit?

Answer: The State of Colorado and the EPA did indeed work together closely while Colorado developed its Regional Haze plan, and the plan contains many beneficial provisions that should help reduce regional haze in Colorado's many national parks and wilderness areas. While the EPA acknowledges that Colorado's approach was a novel and comprehensive strategy for addressing regional haze requirements and other air quality goals, the EPA did express some concerns in its approval of the Colorado plan with the cost and visibility analyses that were conducted for the units at the Tri-State Craig facility. In regards to the litigation on our approval of Colorado's plan, we are currently engaged in confidential settlement discussions under the auspices of the 10th Circuit mediator, and, therefore, we cannot comment further at this time.

The Honorable Mike Pompeo

- 1: Recently, the EPA has undertaken a wide-ranging review of the retailers that offer Lead Renovation, Repair and Painting (LRRP) installation services rather than the contractors on the jobsite, performing the work. The Agency reportedly has asserted that the retailers themselves are responsible for all aspects of compliance with the LRRP Rule - even though

the renovation work is actually performed by the independent, third-party contractors and not by the retailers themselves. What are your thoughts on the expansion of the LRRP rule to include a retailer?

Answer: In 2008, the EPA promulgated the Lead, Renovation, Repair, and Painting Rule. The RRP Rule prohibits firms from performing, offering, or claiming to perform renovations for compensation in target housing and child-occupied facilities unless they first become an EPA-certified renovation firm (See 40 CFR 745.81.(a)(2)(ii)).

The requirement for firm certification includes not only firms that “perform,” but also those that “offer” or “claim to perform renovations” (see above). The EPA understands that many home improvement retail companies enter into contracts with consumers to perform renovations. These contracts constitute offers to perform specific renovations for compensation and, when the consumer signs the contract, the company becomes obligated to perform on the contract. Whether the home improvement retail company intends to perform the renovation using its own employees or contracts the work out to another firm or independent installer, the company is obligated to become a certified renovation firm before entering into such contracts.

EPA-certified renovation firms have certain responsibilities specified at 40 CFR 745.89(d), including, but not limited to, a responsibility to ensure that the recordkeeping requirements of 40 CFR 745.86 are met. Per 40 CFR 745.86, the firm must retain, and if requested, make available to the EPA all records necessary to demonstrate compliance with the RRP Rule. The EPA has developed a sample one-page recordkeeping checklist to assist firms in complying with these requirements.

- 2: Shouldn't the goal of the LRRP rule be to reduce lead based hazards during a renovation project? If so, why is the agency more focused on bureaucratic, administrative errors in the paperwork submitted to a retailer by the independent subcontractors rather than focusing on actual performance and compliance with the rule by the subcontractor onsite in the actual workplace?

Answer: Section 402 of the Toxic Substances Control Act provides that the goal of the EPA's Lead-Based Paint Renovation, Repair and Painting Rule is “to ensure that individuals engaged in ... [lead-based paint] activities are properly trained; that training programs are accredited; and that contractors engaged in such activities are certified.” (Section 402 of the Toxic Substances Control Act, 15 U.S.C. 2682). Common renovation, repair, and painting activities that disturb lead-based paint (like sanding, cutting, replacing windows, and more) can create hazardous lead dust and chips which can be harmful to adults and children. But with careful work practices and thorough clean-up, renovations can be done safely. The EPA's Lead Renovation, Repair and Painting Rule (RRP Rule) requires that firms performing renovation, repair, and painting projects that disturb lead-based paint in homes, child care facilities and pre-schools built before 1978 be certified by the EPA and use certified renovators who are trained by EPA-approved training providers to follow lead-safe work practices. The agency protects the public from exposure to lead by requiring compliance with all aspects of the RRP regulations – training and certification in lead safe work practices, compliance with those work practices on site, as well as maintaining adequate documentation that those work practices were followed.

The Honorable Bill Johnson

- 1: The Environmental Protection Agency headquarters in Washington, D.C. maintains an open door with manufacturing companies in the United States. However, companies often encounter less transparency and accessibility with the agency at the research level regarding data. What steps will the Agency take to rectify this problem?

Answer: The EPA's research provides much of the foundation for Agency decision-making and the basis for understanding and preparing to address environmental needs and issues. The manufacturing sector is important for the EPA and in recent years, the Agency has expanded its analysis of sector-based options to address complex issues like non-point source pollution from food and livestock production, and to continue work in the agri-business sector that focuses on the major corporate entities that have an enormous effect on environmental management decisions related to food production.

All research and development resources in the EPA continually inform Agency decisions, solve current real-time environmental problems on the ground, or design tools and approaches to be applied to emerging issues. The EPA's research program functions in close partnership with the EPA Program and Regional offices, highlighted by ongoing interaction anticipating the Agency's policy-level decision-making needs, and also emphasizing practical, timely, relevant, and rigorous peer-reviewed findings. The EPA's research methodology, tools, models and databases are publicly available and easily accessible on the EPA's website. Additionally, the EPA provides a wide variety of guidance, presentations, and other assistance to the regulated community and continues to respond to requests for information as they are received.

Further, the EPA has established, and continues to promote, a commitment to scientific integrity. When dealing with science, it is the responsibility of every EPA employee to conduct, utilize, and communicate science with honesty, integrity, and transparency, both within and outside the Agency. As part of this commitment, the EPA is developing a draft implementation plan to support increased public access to the results of research funded by the Agency. This is in response to the February 22, 2013 Office of Science and Technology Policy (OSTP) memorandum requiring that the results of federally funded scientific research be made available to and useful for the public, industry, and the scientific community. As directed by OSTP this draft implementation plan will be submitted by August 22, 2013 and will be finalized after OSTP has reviewed the draft and provided comments back to the EPA.

- 2: On multiple occasions the EPA has stated the important value of manufacturing companies in the United States to improving job growth and the environment. Yet many manufacturing companies face serious challenges with regulations by the Environmental Protection Agency, which effectively force manufacturing to relocate outside the United States. What will the Agency do to improve cooperation between the Environmental Protection Agency and these companies?

Answer: The EPA strives to have collaborative working relationships with all stakeholders in the regulatory process. Working closely with the regulated community can lead to better programs that are more effective and efficient. To that end, continuously improving relations with members of the regulated community has been a long-standing goal of the Agency. Just a few of the general means available to the agency for improving cooperation with the regulated community on regulations

include the notice and comment process of the Administrative Procedure Act, the Small Business Regulatory Enforcement Fairness Act, and the use of public meetings related to regulations under development. In addition, like other Federal agencies, the EPA publishes a Semiannual Regulatory Agenda and an annual Regulatory Plan. These documents describe regulations currently under development or recently completed.

Over the years, the EPA has used both formal and informal processes for engaging stakeholders. For example, soon after the 1990 Clean Air Act amendments, formal regulatory negotiations produced agreements on proposed rules to prevent toxic emissions from equipment leaks, set requirements for cleaner "reformulated" and "oxygenated" gasolines, and cut toxic emissions from steel industry coke ovens. Informal talks and consultation with advisory committees produced agreement on rules that control acid rain and phase out chlorofluorocarbons, which deplete the stratospheric ozone layer.

A recent example where the EPA's extensive stakeholder outreach led to successful rulemaking process is the EPA and the Department of Transportation's National Highway Traffic Safety Administration's (NHTSA) joint rulemaking to develop the first National Program of harmonized standards to reduce greenhouse gas (GHG) emissions and improve fuel economy from cars and light trucks. These standards, broadly supported by stakeholders, will result in significant GHG reductions and oil savings and save consumers money at the pump. In developing the rule, the EPA met extensively with a wide range of stakeholders, including automakers, automotive suppliers, labor unions, consumer groups, environmental interest groups, state and local governments, and national security experts and veterans. The input from stakeholders was invaluable in ensuring that the EPA had the most comprehensive set of data and other information possible to inform the proposals.

Another recent example of a successful rule resulting from the EPA's stakeholder outreach includes the GHG Reporting Rule. The EPA met individually with a diverse range of stakeholders to seek their input, including members of the power industry and related trade associations, vendors of air pollution control and monitoring technology, engineering firms, and regional transmission operators that distribute electric power. These discussions helped shape key provisions to minimize compliance burden and protect electricity reliability while meeting emission standards. For the GHG Reporting Rule, the EPA actively sought input from stakeholders through holding technical meetings. To date, the GHG Reporting Program has held nearly 500 outreach meetings, webinars, and public hearings. Based on stakeholder input, the EPA provided extensive website postings for every action taken and efforts to highlight public comment periods for rules, information collection requests, and other Federal Register notices. The EPA also made the electronic GHG reporting system available to the reporting community prior to finalizing and launching the software, resulting in over a thousand stakeholders providing valuable feedback. This feedback allowed the agency to tailor reporting requirements to make it easier for businesses to comply, thus saving time and money.

The EPA views cooperation between the agency and companies to be a very important aspect of our work, and we plan to continue use of the processes we have in place to ensure engagement with stakeholders in future regulatory actions.

- 3: The Environmental Protection Agency is criticized for employing data in various programs that is outdated, if that data is at all revealed to the public or businesses. What measures will the Agency take to correct the use of inaccurate, outdated data in regulatory compliance?

Answer: Three internal processes the Agency uses to ensure that data and information used to support its decisions represent the best available science and meet specific quality standards are:

1. EPA Quality Program - epa.gov/quality,
2. Information Quality Guidelines - epa.gov/quality/informationguidelines and
3. Action Development Process

The EPA Quality Program requires the development of environmental data quality criteria, Quality Assurance documentation, and robust data quality reviews to ensure data are appropriate for its intended use. The Information Quality Guidelines establish an internal Agency review of information, which may include peer review, before it is disseminated to the public. The Action Development Process provides a comprehensive framework to ensure the use of quality information to support Agency actions and an open process.

When the EPA issues a notice of proposed rulemaking supported by studies and other information described in the proposal or included in the rulemaking docket, the open public comment period gives the public or business an opportunity to provide feedback to the agency about the quality of the data and information being used to support a regulatory action. The Agency uses the public comment period and the subsequent development of a response to comments document as a process to correct inaccurate and outdated data. The EPA believes that the open public comment process allows the Agency to correct any data or information that is inappropriate for a given regulatory action.

The EPA provides compliance and enforcement data on the Enforcement and Compliance History Online (ECHO) website (<http://www.epa-echo.gov>). The data shown within ECHO are drawn from national enforcement and compliance databases. Each national data system that feeds ECHO has data integrity procedures (built into system software and training for data entry specialists), including a set of data stewards within the EPA and the states that are responsible for ensuring high-quality information is provided. To further ensure the integrity of the data, the EPA has a yearly "Data Verification" process with the states to ensure that the right information is going into the data systems. ECHO also provides users with the opportunity to challenge the veracity of the data through an online Agency error notification process. Under this process, data users can pinpoint information that may need review. The EPA and state data stewards then use this information to determine whether data fixes are needed – then communicate the resolution to the EPA. Users that are not satisfied with the decision of the data steward are also offered appeal options, as specified under the Data Quality Act. ECHO also maintains a system of "Data Alerts" and caveats shown in ECHO that are primarily dedicated to explaining specific data flows that are problematic (e.g., situations when the states are not able to properly submit data).

The aforementioned processes are measures the Agency will continue to employ to ensure the use of accurate and timely data for its environmental decisions and regulatory compliance.

- 4: I recognize that there are times when spending additional money on a specific regulation is required in order to develop a proper rule. For example, the EPA is currently in the process of developing a MACT standard for the brick industry to replace the MACT that was vacated by the courts in 2007. Since this industry was in full compliance with the original Brick MACT before it was vacated, much of the emission reduction from the larger sources has already been achieved as most of those controls remain in place. In fact, EPA is using data from those

sources who installed controls in good faith to force even more stringent controls on this vital industry. How is the Agency effectively using resources to develop a rule that acknowledges the emissions reductions already attained and to not blindly follow the "one size fits all" approach used in recent MACTs?

Answer: We are aware of the issues noted above for this rulemaking. We are using technical information developed in recent rulemakings (such as boilers and Portland cement) in order to efficiently use our resources in this effort. As we develop the proposed rule, we are considering the fact that some sources have already installed control devices, and we are investigating the extent to which a standard, consistent with the statutory requirements, may be fulfilled leaving the already-installed control devices in place. However, we are legally required to consider the current emissions levels for sources in the industry in setting regulations, including, for the Brick MACT, sources in that category with high-performing control devices. The statutorily mandated process results in emissions limits that apply to all sources in the category and may require some sources to achieve additional reductions.

5: For example, the Clean Air Act has a different path that is allowed in situations like this. This path, using a combination of health-based standards for threshold pollutants and work practices for pollutants where it is impracticable to measure and control, could both protect the environment and ensure an important industry is not needlessly threatened. Will EPA commit to fully explore this alternative path?

Answer: We have already begun looking at the regulatory flexibilities available to us under the law. This includes health-based standards and work practices for certain pollutants and/or sources.

6: The rulemakings for the Brick industry have been impacted by the EPA's "sue and settle" approach to dealing with third-party lawsuits on both rounds. The now-vacated MACT was rushed in 2003 due to a pending lawsuit from an environmental group, resulting in a rule that was vacated by the courts for its deficiencies. Now this industry is facing another court-ordered schedule based on a consent decree that you recently accepted. What assurances can the Agency give me and this industry that the schedule will not be used as justification for yet another rushed deficient rule? And what can the Agency do to ensure that this rulemaking will include a full consideration of the alternative approach of using a combination of health-based and work practice standards to ensure that the requirements of the CAA are followed and the environment protected without requiring huge burdens on a critical industry that provide limited to no environmental benefit?

Answer: We have renegotiated the consent decree deadline for the proposed rule, extending it from August 2013 to February 2014. This change addressed concerns raised by small businesses as part of the SBREFA process. We believe this additional time will allow us to fully consider the alternative approaches discussed above and develop a rule that is fully consistent with statutory requirements. Based on our experience, we believe that negotiated settlements, as opposed to continued litigation, in the long run provide more reasonable schedules and more certainty.

7: I recognize that EPA is being asked to do more with less; however, so is industry. The brick industry is relatively small, with more limited resources than some of the source categories that you have recently regulated. What is the Agency doing to ensure that this small industry is not disadvantaged simply because it does not have the financial resources to fund research

projects to support the rulemaking process? Please explain in detail how EPA ensures that smaller industries have the same access to a fair and reasonable rule as larger industries.

Answer: The EPA is sensitive to the financial issues of the brick industry. For example, when we requested emission testing, we tried to restrict the testing requirements to the minimum required for the rulemaking process. We have reached out directly to control equipment vendors to obtain data, rather than asking the industry to do so, and we have leveraged information from other rulemakings involving similar industries to minimize the need for research specific to the brick industry and hence lighten the burden. As part of the rulemaking process, we also consider regulatory impacts of the proposed rule. This requires that we investigate different approaches that industry could use to meet the proposed emission limits. We will undertake this process with the same thoroughness for the brick industry as we do for larger industries, and we will have developed the same level of information at the end of this process. In addition, the SBREFA process, discussed above, will provide the brick industry an additional opportunity to discuss specific issues of concern to small businesses.

8: Is the EPA maintaining and saving all forms of mobile communication of political appointees? This includes text messages, blackberry messages, iPhone messages, etc.

Answer: Because of transitory nature and limited size of communications such as text messages (on any brand of mobile device), it is unlikely that these messages will constitute records subject to a preservation under the Federal Records Act. However, should an employee identify a particular text message that constitutes a Federal Record, the EPA would work with that employee to properly preserve the text message.

9: If you are saving all of these messages are you working to turn over messages that are in the scope of FOIA to parties that have requested them?

Answer: In responding to a Freedom of Information Act (FOIA) request, the EPA searches for all records that are responsive to that FOIA request. If during the search for responsive records, text messages are identified, and then the EPA would process these records along with all other responsive records to the FOIA request.

The Honorable John D. Dingell

1: I recently joined with my colleagues from the Great Lakes region in signing a letter to the Appropriations Committee requesting \$300 million for the Great Lakes Restoration Initiative. I know the Administration requested that level of funding as well. However, I have concerns about what EPA is doing to address water quality in the Great Lakes. On March 15, 2013, I sent you a letter referencing an article in the New York Times which noted that in the 1960s Lake Erie was nicknamed "North America's Dead Sea." I have worked long and hard to pass legislation and funding to protect and preserve the Great Lakes.

a: Given current and requested funding levels, does EPA have the resources to combat massive algae blooms such as the one on Lake Erie?

Answer: It will take a coordinated, multi-year approach to address the problem of massive algae blooms such as the one on Lake Erie. Several agencies, particularly the EPA, U.S. Department of

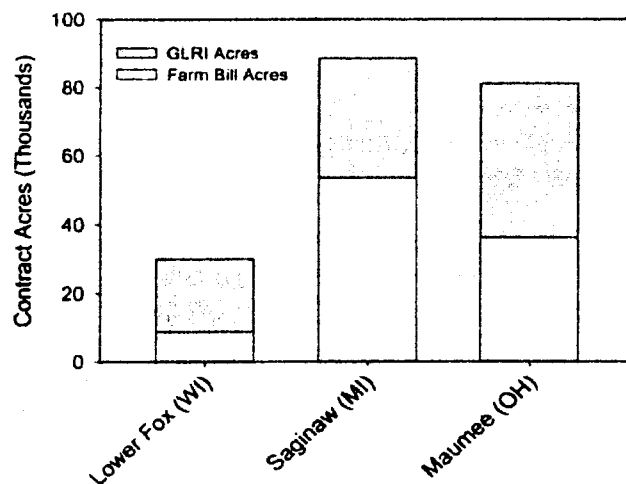
Agriculture's Natural Resource Conservation Service (NRCS), U.S. Army Corps of Engineers, National Oceanic and Atmospheric Administration, and U.S. Geological Survey, are targeting some of their GLRI and non-GLRI funding for that purpose. In light of the nation's current fiscal condition and budget constraints, we believe the current and requested funding levels are appropriate. Because phosphorus has built up in soil over many years and takes time to process through watersheds, these and other management actions will likewise take time to show results downstream.

b: Could you please submit for the record additional information on efforts EPA is taking to address this issue?

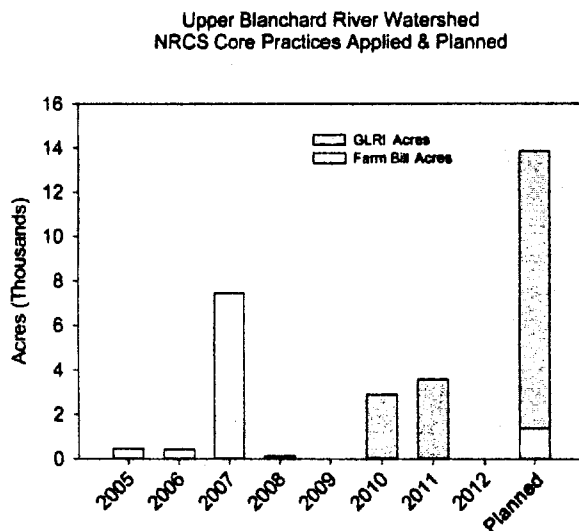
Answer: The EPA is coordinating efforts by GLRI agencies, such as NRCS, to direct resources and activities at the most significant cause of this problem – nutrient runoff from agricultural lands. In 2011, the Great Lakes Interagency Task Force (IATF) directed its Regional Working Group (RWG) to prioritize GLRI efforts to address nutrient runoff in key Great Lakes watersheds. The Maumee River watershed, which is located in Ohio, Michigan, and Indiana and which flows into western Lake Erie, is one of three targeted Great Lakes watersheds.

The EPA has given GLRI funding to NRCS to provide farmers with financial and technical resources to implement science-based conservation systems that will control soil erosion and reduce nutrient loss. So far, over 260 GLRI-funded nutrient reduction projects and assistance agreements with farmers are underway in the Maumee River watershed. These conservation systems allow farmers to tailor fertilizer inputs to crop needs, improve the health of their soil, and sustainably produce food for the nation. These projects in the Maumee River watershed, together with USDA projects funded outside of GLRI, put over 80,000 acres under contract (see chart below), will reduce sediment and nutrients entering Lake Erie, and will reduce human health risks and ecosystem degradation posed by harmful algal blooms and other nuisance algal growth.

USDA Conservation Practices – Contracted Acres (FY 2010-FY 2012) as of Oct. 1, 2012



Within targeted watersheds, the agencies are now focusing on subwatersheds that are most likely to yield results, implementing targeted actions to achieve them, and monitoring the resulting phosphorus reductions. Applied and planned practices funded by GLRI are expected to cover approximately 7 percent of cropland in the Upper Blanchard River sub-watershed of the Maumee River. (See chart below.)



Since 2011, the EPA also has used GLRI resources in conjunction with other federal agencies to advance the science necessary to better understand the effectiveness of actions taken to reduce the amount of nutrients entering Lake Erie. These activities include:

- installing equipment to measure reductions in phosphorus and sediments;
- mapping algae blooms via satellite;
- increasing the technical expertise of agricultural professionals working in the Maumee watershed with respect to nutrient management plans;
- developing TMDLs in the upper Maumee watershed;
- improving agricultural drainage management in the western Lake Erie basin; and
- evaluating discharges of nutrients into Lake Erie from point sources.

In addition to the GLRI, the EPA administers other programs that can be used to address nutrient reduction in the Lake Erie Basin, such as the Section 319 Program. Section 319 of the Clean Water Act (CWA) established a national program to address nonpoint sources of water pollution. Section 319(h) specifically authorizes the EPA to award grants to states with approved Nonpoint Source Assessment Reports and Nonpoint Source Management Programs. The funds are used to implement programs and projects designed to reduce nonpoint source pollution, such as implementation of Nine Element Watershed Plans and Total Maximum Daily Loads (TMDLs).

Additionally, the EPA's National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants, including nutrients, into Lake Erie and its tributaries.

- 2: What is EPA doing to enforce the cost of cleanups and emergency cleanups? What is EPA doing to hold property owners responsible for the costs related to cleanups?

Answer: The EPA is committed to an "enforcement-first" approach that maximizes the participation of liable and viable parties in performing and paying for Superfund cleanups. The EPA conducts rigorous searches to find Potentially Responsible Parties (PRPs) at hazardous waste sites. There are four classes of Superfund liable parties: current owners and operators of a facility; past owners and operators of a facility at the time hazardous wastes were disposed; generators and parties that arranged for the disposal or transport of the hazardous substances; and, transporters of hazardous waste who selected the disposal site.

Once identified, the EPA, in coordination with the Department of Justice, negotiates cleanup agreements with the PRPs and, where negotiations fail, takes enforcement actions to require cleanup or expends Superfund appropriated dollars to remediate the sites, sometimes in combination. The agency will then seek recovery of those appropriated dollars that have been expended. Since the inception of the program, the cumulative value of private party commitments for cleanup is over \$37 billion (\$31.2 billion for cleanup work and \$6 billion in cost recovery).

More information about the EPA's Superfund Enforcement program may be found at:

<http://www.epa.gov/compliance/cleanup/superfund/index.html>

- a: Is EPA going to continue to hold these existing steps to the highest level of importance?

Answer: Yes, consistent with funding levels the EPA will continue to ensure PRP participation in cleanups while promoting fairness in the enforcement process and will continue to recover costs from PRPs when appropriated dollars are expended.

The Honorable Frank Pallone, Jr.

- 1: On January 14th of this year, I, along with several of my colleagues in the House of Representatives, wrote to the Office of Management and Budget regarding the RICE NESHAPS rule. Specifically, we expressed concern with effectively allowing basically unregulated diesel generators to get paid to run as so-called "demand response." Senator Lautenberg and others have also written on this issue and it was raised by Chairman Whitfield at a hearing last week in the Energy and Power Subcommittee.

While the decision to allow these diesel-fueled backup generators to participate in the electricity market was FERC's, it was EPA's decision not to hold these units to the same environmental standards as others bidding into the market, even though these dirty diesel units are displacing cleaner sources of generation, including solar and wind. Perhaps that's why the concern over this decision has been raised by a diverse set of concerned stakeholders including environmental groups, New Jersey and other states, and power companies. This very diverse set of stakeholders coming together on the same side has now taken the rule to court to petition the EPA for reconsideration. Given the concerns raised by this unique coalition of stakeholders and members, does EPA plan to reconsider the RICE NESHAPS rule?

Answer: We are currently evaluating all of the petitions for reconsideration that we received for the RICE NESHAP. On June 28, 2013, then Assistant Administrator Gina McCarthy sent a letter to the Delaware Department of Justice stating that the Agency intends to initiate a reconsideration process for the RICE NESHAP on the following issues:

- Timing for compliance with ultra low sulfur diesel fuel requirement for emergency compression ignition engines that operate or are contractually obligated to be available for more than 15 hours per calendar year.
- Timing and the required information for the reporting requirement for emergency engines that operate or are contractually obligated to be available for more than 15 hours per calendar year.
- Conditions in 40 CFR § 63.6640 (f)(4)(ii) for operation for up to 50 hours per year in non-emergency situations as part of a financial arrangement with another entity.

We are continuing to review the other issues in the petitions. We value the input you have provided and will consider it as our evaluation proceeds.

The Honorable Diana DeGette

- 1: Is it known for certain whether or not shale gas development through hydraulic fracturing poses an increased risk to human health and the environment over the risks associated with conventional oil and gas development?

Answer: This is an important question that the EPA's Drinking Water Study and the Tri-Agency work seek to inform.

- 2: Is it known for certain whether or not shale gas development through hydraulic fracturing poses no risk to the environment or public health?

Answer: No, it is not known for certain whether or not shale gas development through hydraulic fracturing poses no risk to the environment or public health.

- 3: As you know, in 2010, former Congressman Hinchey and I requested an EPA study to determine the potential impacts of hydraulic fracturing on drinking water. In your FY 2014 budget request, you ask for \$6.1 million for the study. As I understand, the study is currently underway with the final report due in late 2014. Is that still the timeline?

Answer: We are on schedule to release a draft report of results for peer review in December 2014. In the Spring of 2015, the SAB will peer review the draft report of results. We expect a final report from SAB by Fall of 2015, and will work to complete the final report of results as expeditiously as possible after that (likely in early to mid 2016, depending on the extent of comments and new information provided during peer review and public comment).

- 4: Is it correct that the hydraulic fracturing drinking water study has been designated a Highly Influential Scientific Assessment, and that a new Scientific Advisory Board, different from the Scientific Advisory Board that reviewed the scoping for the study, has been selected to review the draft report?

Answer: Yes, the 2014 draft report of results has been designated a Highly Influential Scientific Assessment, as posted on the EPA's Science Inventory. It will receive the highest level of peer review in accordance with the EPA's peer review handbook.

In March, the EPA's independent Science Advisory Board announced the formation of a Hydraulic Fracturing Research Advisory panel, and it is anticipated that this panel will review the draft report of results. This is a different ad hoc panel from the one which reviewed the Study Plan.

- 5: Given the designation of the study as a Highly Influential Scientific Assessment and the formation of a new Scientific Advisory Board, do you still have sufficient funding, time, and access to information to complete the study by late 2014? Or will it only be released for peer review by that time?

Answer: The EPA plans to release a draft report of results for review by the Science Advisory Board's Hydraulic Fracturing Research Advisory Panel in December 2014.

- 6: One part of the study I am especially interested in is the case studies. You identified five sites for retrospective case studies and directed EPA, the state, and industry to be present during sampling to verify and review the samples for quality assurance.

-
- a: What are the statuses of the retrospective studies at the five sites? Have there been any issues with data collection and analysis?

Answer: The EPA has successfully completed its Tier 2 sampling activities at all five sites. The data is undergoing quality assurance now, and then the EPA will evaluate the data to determine next steps.

- b: There are also supposed to be a number of prospective case studies, where wells are drilled, completed, and then produce, with data collection and measurements each step of the way. What about the sites for prospective case studies? Have they been identified, and do you have the resources and support to proceed?

Answer: The EPA is currently working with industry partners to identify locations and develop research activities for the prospective case studies.

- 7: The EPA has also issued requests for existing data concerning spills, water and waste treatment and disposal, identities of chemicals, standard operations at drilling sites, well locations, water use, well files, etc., from state, Federal, and local governments, as well as industry and other stakeholders. Are there any existing or ongoing requests for information? How much of a response have you received?

Answer: We have no outstanding formal requests for information. In 2010 and 2011, the EPA requested information from nine hydraulic fracturing service providers and nine oil and gas companies. We received responses from all the firms from whom we requested information and are in the process of evaluating the information and engaging in discussions with the companies to ensure that the information is complete and that we understand it completely.

In November 2012, the EPA published a Federal Register Notice inviting the public to submit data and scientific literature to inform the EPA's research on the potential impacts of hydraulic fracturing on drinking water resources. On April 30, 2013, the EPA extended the deadline to submit information to the docket from April 30, 2013 to November 15, 2013. The EPA extended the deadline in order to provide the public with more of an opportunity to provide data, scientific papers, and other information to inform the EPA's study.

- 8: As you know, the Energy Policy Act of 2005 exempted hydraulic fracturing from EPA regulation under the Safe Drinking Water Act, except when diesel is used. In the EPA's budget justification, you mention EPA will ensure proper oversight of hydraulic fracturing operations where diesel fuel is used by implementing permitting guidance under SDWA's Class II UIC program. What is the status of the guidance?

Answer: The EPA is currently focused on reviewing the more than 97,000 public comments it received on the draft guidance and on making appropriate revisions to the guidance. Any revised guidance will reflect the public comments the EPA has received on the definition of diesel fuels.

- 9: The budget justification also mentions that the agency also will work with states and stakeholders on developing and implementing voluntary strategies for encouraging the use of alternatives to diesel in hydraulic fracturing and improving compliance with other Class II regulations, including risks from induced seismic events and radio nuclides in disposal wells. One of the primary factors in America's significant reductions in pollution over the last 40 years has been federal baseline policies for restoring and protecting the environment, including the UIC program. Could you or your staff continue to update us on the guidance and the outreach to improve compliance for this program?

Answer: The EPA is currently focused on reviewing the more than 97,000 public comments it received on the draft guidance and on making appropriate revisions to the guidance. Any revised guidance will reflect the public comments the EPA has received on the definition of diesel fuels.

The Honorable John Barrow

- 1: I understand that you've been working with stakeholders to finalize the rule governing cooling water intake structures under Section 316(b) of the Clean Water Act. Last year, I joined on a letter to EPA urging that the final rule should provide ample compliance flexibility to accommodate a diversity of industrial facilities and allow for multiple pre-approved technologies. Can you provide an update on your progress for finalizing the rule with those goals in mind?

Answer: The EPA is working diligently to complete its work to develop final standards under Section 316(b) of the Clean Water Act and plans to finalize these standards by November 4, 2013. In exercising its CWA authority to promulgate technology-based standards, the EPA always uses one or more technologies that are available and effective as the basis for setting numeric limits. The EPA sets performance-based standards; the EPA does not prescribe the technology that a facility uses, allowing facilities to take their site-specific factors into account in deciding how best to comply. In the April 2011 proposal, the EPA specifically sought additional data on the extent to which facilities could comply with the proposed standards, which can help the agency assess the extent to which the proposed standards were appropriate. Through this public comment process, the agency

received an additional 80 documents, as noted in the Notice of Data Availability published on June 11, 2012. Moreover, the EPA received significant comments regarding ways in which the impingement mortality standard could be modified to allow site-specific variability to be taken into account, and noted these flexibilities in the June 11, 2012 Notice of Data Availability.

The Honorable Jerry McNerney

- 1: At the hearing, EPA stated that it plays a role in reviewing the Bay Delta Conservation Plan (BDCP). What have been and what are the specific actions EPA is involved with during this interagency process?

Answer: The EPA reviews NEPA-related documents characterizing BDCP project alternatives, and we have offered observations and advice to the Sacramento Corps District as they develop their permitting framework for the project per the Clean Water Act and Rivers and Harbors Act (the framework is called the BDCP: Permit Application Approach for Conservation Measure 1). We are currently reviewing the Administrative Draft Environmental Impact Statement/Environmental Impact Report (ADEIS) for the BDCP.

- a: How has the EPA communicated with other federal agencies that are also working on the BDCP?

Answer: The EPA participates in biweekly Regional Federal Coordination calls/meetings convened by a representative from the Department of the Interior. Beyond this forum, the EPA staff and managers have regular exchanges with representatives from other resource and regulatory agencies and with representatives from a variety of stakeholder groups.

- 2: The EPA Action Plan for the Bay-Delta stated that "Despite much ongoing activity, CWA (Clean Water Act) programs are not adequately protecting Bay Delta aquatic resources, as evidenced by the pelagic organism decline." Does EPA believe that the current BDCP proposal adequately addresses the concerns outlined in its report related to protecting the Bay Delta Estuary?

Answer: We are currently reviewing the Administrative Draft Environmental Impact Statement/Environmental Impact Report (ADEIS) for the BDCP and we submitted an initial list of comments and concerns to the U.S. Bureau of Reclamation in July.

- 3: How many and what type of resources (e.g. number of staff, hours worked, and total agency funds, etc.) were used on the BDCP in fiscal years 2011-2012?

Answer: The EPA estimates that two full-time equivalents (FTE) have been devoted to the proposed projects during fiscal years 2011-2012.

AL 12-001-8180



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 7 - 2012

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the June 2012 Government Accountability Office report entitled, *Air Pollution: EPA Needs Better Information on New Source Review Permits* (GAO-12-590). The EPA prepared this response pursuant to 31 U.S.C. 720. The EPA appreciates the GAO's diligence and efforts in its review of this highly visible and important EPA program.

The EPA has provided comments on an earlier draft of this report. The GAO's final report incorporates many of the agency comments within the body of the report. (The agency's comment letter can be found in Appendix IV.) As a result, the EPA believes the final report accurately represents the Agency's positions on the GAO's analyses and recommendations. In our responses below, the EPA reaffirms its positions that are reflected in the GAO's final report.

GAO Recommendation

To help improve EPA's implementation of NSR, we recommend that the EPA Administrator direct the entities responsible for implementing and enforcing NSR—specifically, the Office of Enforcement and Compliance Assurance, Office of Air Quality Planning and Standards, and EPA regions—to take the following two actions:

- Working with EPA regions and state and local permitting agencies, consider ways to develop a centralized source of information on NSR permits issued to fossil fuel electricity generating units, and
- Using appropriate methods, such as sampling or periodic assessments, develop a process for evaluating the effects of its comments on draft NSR permits.

EPA Response

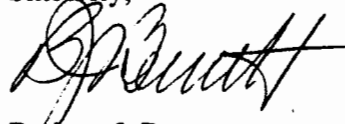
Consistent with the agency comments submitted to the draft report (see final report Appendix IV):

- The EPA will continue to utilize its existing permit tracking systems and encourage better participation by permitting agencies.
- The EPA continues to believe that it already implements the processes described in this recommendation. As noted in the GAO's report, the EPA regional offices review how their comments on a draft NSR permit were considered by a state or local permitting authority once the permitting authority issues the final permit. Additionally, the EPA regions often conduct periodic assessments of the state and local permitting programs that they oversee. In these assessments, the regional offices evaluate whether the state is meeting the commitments of the applicable delegation agreement or complying with the approved state implementation plan, as applicable, and raise issues and concerns with the state. If an EPA regional office were to believe that a permitting authority is not adequately considering the agency's comments on an authority's draft permits, this would be raised as a concern. The EPA believes that these processes provide the necessary oversight to gauge the effect of the EPA's comments on draft NSR permits, and that additional tracking would not yield any additional measurable or meaningful results.

Again, the agency appreciates the GAO's review of the NSR permit program, and the opportunity to review and respond to the GAO's final report. The EPA will continue to work with its regional offices and the state and local permitting agencies to explore better ways to implement the NSR program and improve the agency's oversight of state and local NSR programs.

If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,



Barbara J. Bennett
Chief Financial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 7 - 2012

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the July 2012 Government Accountability Office report entitled "*Information Security: Environmental Protection Agency Needs to Resolve Weaknesses*" (GAO-12-696). The EPA prepared this response pursuant to 31 U.S.C. 720.

This response reflects the EPA's continuing effort to ensure that all information assets are protected at a level that is commensurate with the sensitivity level of the data. Specifically, the GAO provided the agency with 12 recommendations structured to assist with the full implementation of all elements of the EPA's information security program. The EPA is in agreement with the spirit of these findings and recommendations. Currently, the agency's Chief Information Officer is taking action to implement the GAO's recommendations. Below are the GAO recommendations, followed by the agency's responses.

GAO Recommendations

To help establish an effective and comprehensive information security program for EPA's information and information systems, we recommend that the Administrator of EPA direct the Assistant Administrator for the Office of Environmental Information to take the following 12 actions:

- Update configuration management procedures to ensure they include guidance for documenting records of approved changes.
- Finalize the 17 agencywide interim information security policies and draft procedures.
- Update system security plans to reflect current policies and procedures.
- Include current NIST Special Publication 800-53 guidance in system security plans.
- Develop and finalize a role-based security training procedure that tailors specific training requirements to EPA users' role/position descriptions and details the actions information security officers must take when users do not complete the training.
- Conduct testing of management, operational, and technical controls, based on risks, to occur no less than annually, for the clean air markets division system identified.
- Include features in the planned remedial action tracking tool that will require users to enter all information required by OMB policy, including descriptions of each weakness and the source of the finding.
- Include features in the planned remedial action tracking tool that block inappropriate alteration of data.

- Implement an agencywide, uniform method for approving contingency plans.
- Develop and implement procedures to annually test the viability of contingency plans for agency systems.
- Develop and implement procedures to ensure that both work and home contact information are included for each individual in a contingency plan's emergency contact list.
- Implement procedures to verify the accuracy of system inventory information.

In a separate report with limited distribution, we are also making 94 detailed recommendations to correct weaknesses in access controls and in other information security controls.

The following are the EPA's responses to the GAO recommendations:

GAO Recommendation:

Update configuration management procedures to ensure they include guidance for documenting records of approved changes.

EPA Response:

The EPA agrees with the recommendation and has updated configuration management procedures to include guidance for documenting records of approved changes.

GAO Recommendation:

Finalize the 17 agencywide interim information security policies and draft procedures.

EPA Response:

The EPA agrees with the recommendation and has finalized and disseminated the overarching information security policy and accompanying 17 interim procedures.

GAO Recommendation:

Update system security plans to reflect current policies and procedures.

EPA Response:

The EPA agrees with recommendation and will update system security plans accordingly.

GAO Recommendation:

Include current NIST Special Publication 800-53 guidance in system security plans.

EPA Response:

The EPA agrees with recommendation and will update system security plans to reflect current 800-53 guidance.

GAO Recommendation:

Develop and finalize a role-based security training procedure that tailors specific training requirements to EPA users' role/position descriptions and details the actions information security officers must take when users do not complete the training.

EPA Response:

The EPA agrees with recommendation and will continue coordinating with the EPA Office of Inspector General to analyze the EPA roles and responsibilities for personnel with significant security responsibilities. The EPA will develop and implement tailored role based training based on the analyses. Related procedures will be included in existing procedures.

GAO Recommendation:

Conduct testing of management, operational, and technical controls, at least annually for the clean air markets division system identified.

EPA Response:

The EPA agrees with recommendation and will continue with transition to third party annual assessments for moderate and high categorized systems across the EPA started in October 2011.

GAO Recommendation:

Include features in the planned remedial action tracking tool that will require users to enter all information required by OMB policy, including descriptions of each weakness and the source of the finding.

EPA Response:

The EPA agrees with recommendation and is scheduled to complete transition to planned remedial action tracking tool by the end of November 2012 to address shortcomings of current tool.

GAO Recommendation:

Include features in the planned remedial action tracking tool that block inappropriate alteration of data.

EPA Response:

The EPA agrees with recommendation and is scheduled to complete transition to planned remedial action tracking tool by the end of November 2012 to address shortcomings of current tool.

GAO Recommendation:

Implement an agencywide, uniform method for approving contingency plans.

EPA Response:

The EPA agrees with recommendation and will implement an agencywide, uniform method for approving contingency plans.

GAO Recommendation:

Develop and implement procedures to annually test the viability of contingency plans for agency systems.

EPA Response:

The EPA agrees with the recommendation and has developed and disseminated procedures for annually testing system contingency plans.

GAO Recommendation:

Develop and implement procedures to ensure that both work and home contact information are included for each individual in a contingency plan's emergency contact lists.

EPA Response:

The EPA agrees with the recommendation and will include work information at a minimum and home contact information as required based on individual roles.

GAO Recommendation:

Implement procedures to verify the accuracy of system inventory information.

EPA Response:

The EPA agrees with recommendation and will implement procedures to verify the accuracy of system inventory information.

Thank you for the opportunity to respond to this recommendation. We appreciate the information and detailed feedback provided by the GAO concerning areas addressed in this audit. If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,



Barbara J. Bennett
Chief Financial Officer

AL-12-001-8237



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 26 2012

THE ADMINISTRATOR

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to support the charter renewal of the Clean Air Act Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Clean Air Act Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

CLEAN AIR ACT ADVISORY COMMITTEE

1. **Committee's Official Designation (Title):**

Clean Air Act Advisory Committee

2. **Authority:**

This charter renews the Clean Air Act Advisory Committee (CAAAC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The CAAAC is in the public interest and supports the Environmental Protection Agency (EPA) in performing its duties and responsibilities under the Clean Air Act Amendments of 1990.

3. **Objectives and Scope of Activities:**

The CAAAC will provide advice, information and recommendations on policy and technical issues associated with implementation of the Clean Air Act Amendments of 1990 (the Act). These issues include the development, implementation, and enforcement of the new and expanded regulatory and market-based programs required by the Act, with the exception of the provisions of the Act that address acid rain. The programs falling under the purview of the committee include those for meeting National Ambient Air Quality Standards, reducing emissions from vehicles and vehicle fuels, reducing greenhouse gas emissions, reducing air toxic emissions, issuing operating permits and collecting fees, and carrying out new and expanded compliance authorities. The CAAAC may advise on issues that cut across several program areas.

The major objectives are to provide advice and recommendations on:

- a. Approaches for new and expanded programs, including those using innovative technologies and policy mechanisms to achieve environmental improvements.
- b. The potential health, environmental, and economic effects of Clean Air Act programs on the public, the regulated community, State and local governments, and other Federal agencies.
- c. The policy and technical contents of proposed major EPA rulemaking and guidance required by the Act in order to help effectively incorporate appropriate outside advice and information.
- d. The integration of existing policies, regulations, standards, guidelines, and procedures into programs for implementing requirements of the Act.

4. **Description of Committees Duties:**

The duties of the CAAAC are solely to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The CAAAC will submit advice and recommendations and report to the EPA Administrator, through the Office of Air and Radiation.

6. **Agency Responsible for Providing the Necessary Support:**

The EPA will be responsible for financial and administrative support. Within the EPA, this support will be provided by the Office of Air and Radiation.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of the CAAAC is \$650,000 which includes 1.5 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The CAAAC expects to meet approximately three (3) times a year. Meetings may occur approximately once every four (4) months or as needed and approved by the Designated Federal Officer (DFO). EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the CAAAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552(b) of Title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the CAAAC.

10. **Duration and Termination:**

The CAAAC will be examined annually and will exist until the EPA determines the committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After this period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

11. Member Composition:

The CAAAC will be composed of approximately forty-five (45) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, EPA will consider candidates from business and industry, academic institutions, State, local and tribal governments, EPA officials, unions, public interest groups, environmental organizations and service groups.

12. Subgroups:

EPA, or the CAAAC with EPA's approval, may form CAAAC subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the CAAAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

13. Recordkeeping:

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

October 5, 2012
Agency Approval Date

October 16, 2012
GSA Consultation Date

OCT 26 2012
Date Filed with Congress

AL 12-001-8835



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 26 2012

THE ADMINISTRATOR

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to support the charter renewal of the Clean Air Act Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Clean Air Act Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over a horizontal line.

Lisa P. Jackson

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

NATIONAL ENVIRONMENTAL EDUCATION ADVISORY COUNCIL

1. Committee's Official Designation (Title):

National Environmental Education Advisory Council

2. Authority:

This charter renews the National Environmental Education Advisory Council (NEEAC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The NEEAC was created by Congress to advise, consult with, and make recommendations to the Administrator of the Environmental Protection Agency (EPA) on matters related to activities, functions and policies of EPA under the National Environmental Education Act (the Act). 20 U.S.C. § 5508(b).

3. Objectives and Scope of Activities:

The NEEAC will provide advice, information, and make recommendations on matters related to activities, functions and policies of EPA under the Act.

The major objectives are to provide advice and recommendations on:

- a. The biennial report to Congress assessing environmental education in the United States (§ 9(d)(1) of the Act).
- b. EPA's solicitation, review, and selection processes for the training and grant programs
- c. The merits of individual proposals to operate the § 5 training program and the § 6 grant program, as requested by EPA.
- d. Overall implementation of the Act.

4. Description of Committees Duties:

The duties of the NEEAC are to provide advice to EPA.

5. Official(s) to Whom the Committee Reports:

The NEEAC will submit advice and recommendations and report to the EPA Administrator through the Office of External Affairs and Environmental Education (OEAAEE).

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Environmental Education, within the Office of External Affairs and Environmental Education (OEAE), under the Office of the Administrator.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of the NEEAC is \$140,000 which includes 0.7 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The NEEAC expects to meet approximately one (1) to two (2) times a year, subject to the availability of appropriations. EPA will pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the NEEAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552(b) of Title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the NEEAC.

10. **Duration and Termination:**

The Act specifically exempts the NEEAC from section 14(a) of the Federal Advisory Committee Act relating to termination 20 U.S.C. § 5508(b)(6). The NEEAC, however, will file a new charter every two years.

11. **Member Composition:**

The NEEAC will be composed of eleven (11) members appointed by the EPA Administrator, or designee, after consultation with the Secretary of the U.S. Department of Education. Members will serve as Special Government Employees (SGE), however, the conflict of interest provision at 18 U.S.C. § 208(a) does not apply to members' participation in particular matters which affect the financial interests of their employers. 20 U.S.C. § 5508(b)(2). SGE pay rates will be determined by EPA's Administrator, but may not exceed the daily equivalent of the annual rate for a GS-18 Federal employee.

As required by the Act, the membership of the NEEAC will consist of: two members representing primary and secondary education (including one classroom teacher); two members representing colleges and universities; two members representing not-for-profit organizations involved in environmental education; two members representing State departments of education and natural resources; two members representing business and industry; and one member representing senior Americans. In addition, a representative of the Secretary of Education will serve as an ex officio member and a representative of the National Environmental Education and Training Foundation may serve as an advisor to the NEEAC.

12. Subgroups:

EPA, or the NEEAC with EPA's approval, may form NEEAC subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the NEEAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

13. Recordkeeping:

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

November 1, 2012

Agency Approval Date

NOV 09 2012

Date Filed with Congress

AL 12-001-8828



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 09 2012

THE ADMINISTRATOR

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to support the charter renewal of the Advisory Council on Clean Air Compliance Analysis in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Advisory Council on Clean Air Compliance Analysis is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over a horizontal line.

Lisa P. Jackson

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

ADVISORY COUNCIL ON CLEAN AIR COMPLIANCE ANALYSIS

1. **Committee's Official Designation (Title):**

Advisory Council on Clean Air Compliance Analysis

2. **Authority:**

This charter renews the Advisory Council on Clean Air Compliance Analysis (Council) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The Council is in the public interest and supports the Environmental Protection Agency (EPA) in performing its duties and responsibilities. Section 812 of the Clean Air Act Amendments of 1990 (codified as 42 U.S.C. § 7612) specifically directed the EPA Administrator to establish the Council.

3. **Objectives and Scope of Activities:**

The Council will provide advice, information and recommendations on technical and economic aspects of analyses and reports EPA prepares concerning the impacts of the Clean Air Act (CAA) on the public health, economy, and environment of the United States.

The Clean Air Act Amendments of November 15, 1990 require the Council to:

- a. Review data to be used for any analysis required under section 312 of the CAA and make recommendations on its use.
- b. Review the methodology used to analyze such data and make recommendations on the use of such methodology.
- c. Prior to the issuance of a report to Congress required under section 312 of the CAA, review the findings of the report and make recommendations concerning the validity and utility of such findings.

At EPA's request, the Council will:

- d. Review other reports and studies prepared by EPA relating to the benefits and costs of the CAA.
- e. Provide advice on areas where additional knowledge is necessary to fully evaluate the impacts of the CAA and the research efforts necessary to provide such information.

4. **Description of Committee's Duties:**

The duties of the Council are to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The Council will report to the EPA Administrator.

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of the Science Advisory Board in the Office of the Administrator.

7. **Estimated Annual Operating Costs and Person-Years:**

The estimated annual operating cost of the Council is \$300,000, which includes 2.0 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all of the advisory committee and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The Council expects to meet approximately two (2) to three (3) times a year. Meetings will occur approximately once every three (3) to six (6) months, or as needed and approved by the DFO. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the Council will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552(b) of Title 5, United States Code. Interested persons may attend meetings, appear before the Council as time permits, and file comments with the Council.

10. **Duration and Termination:**

This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

11. Member Composition:

As required by the CAA, the Council will be composed of at least 9 members. Members will serve as Special Government Employees. Members will be recognized experts from the fields of health and environmental effects of air pollution, economic analysis, environmental sciences, and such other fields as the Administrator determines to be appropriate.

12. Subgroups:

EPA, or the Council with EPA's approval, may form Council subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the Council for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

13. Recordkeeping:

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

November 1, 2012
Agency Approval Date

NOV 09 2012

Date Filed with Congress

AL13-000-5975



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN - 7 2013

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the March 2013 Government Accountability Office report entitled, *Energy Efficiency: Better Coordination among Federal Programs Needed to Allocate Testing Resources*, (GAO-13-135). The EPA prepared this response pursuant to 31 U.S.C. 720.

The EPA generally agrees with the GAO's findings and recommendation. This report examines three key federal programs involved in advancing energy efficient consumer products – federal minimum efficiency standards, the Energy Guide label and ENERGY STAR. Based on its review, the GAO found that officials managing these programs have taken steps to mitigate the potential consequences of fragmentation and overlap by collaborating towards a common goal. Given the differing missions of the programs, the GAO found that they are not broadly duplicative and that the three programs together provide more value than would any of the efforts alone. That said, the GAO found some amount of duplication in the verification testing of products performed under the ENERGY STAR program and that performed by the Department of Energy.

GAO Recommendation

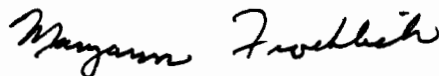
To limit the potential for duplication in the current Energy Star verification testing activities, we recommend that the Administrator of the EPA develop a process that helps ensure that the Energy Star certification bodies communicate the models they randomly select for testing to the EPA and the DOE as quickly as possible so that the DOE can avoid selecting the same models.

EPA Response

The EPA shares the GAO's interest in minimizing verification testing duplication and agrees that a systematic exchange of verification testing plans is critical to this objective. In April 2013, the EPA performed a final analysis of duplicate tests in 2012 and then met with the DOE to develop targeted improvements to the coordination process. Given the focus of the DOE's testing, the majority of the duplicate tests involved the certification body performing the bulk of the Energy Star verification testing for appliances. This certification body has agreed to provide advance notice of its testing plans directly to the DOE. For the other relevant product categories, the EPA will continue to provide the DOE early notice of nominated models as well as prompt notice of certification body tested models.

The EPA appreciates the GAO's review of these issues and the opportunity to review and respond to the report. If you have any further questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Maryann Froehlich". The script is cursive and fluid.

Maryann Froehlich
Acting Chief Financial Officer

AL14-000-4426



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 10 2014

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the September 2013 Government Accountability Office report entitled, *Great Lakes Restoration Initiative: Further Actions Would Result in More Useful Assessments and Help Address Factors That Limit Progress* (GAO-13-797). The EPA prepared this response pursuant to 31 U.S.C. 720.

The EPA agrees with the conclusions and recommendations contained in the GAO's final report and, in many cases, the EPA is already taking action that is consistent with the recommendations:

- The GAO recommendations concerning the need for improved assessment of the GLRI progress are consistent with steps already being taken as the GLRI agencies work to improve existing information systems and to develop appropriate measures of progress in the FY 2015 - 2019 GLRI Action Plan.
- The GAO recommendation concerning the importance of adaptive management is consistent with steps already being taken as the GLRI agencies work to finalize an *Adaptive Science-Based Framework for Great Lakes Restoration*.
- The GAO recommendation regarding the need to account for climate change and other factors outside of the scope of the FY 2010 - 2014 Action Plan that may limit GLRI progress is already a major focus of discussions underway to develop the FY 2015 - 2019 GLRI Action Plan.

Further, this GAO report is particularly well-timed – because it comes at the beginning of a new five-year GLRI planning cycle. The GLRI agencies expect to issue a draft FY 2015 - 2019 Action Plan for public comment sometime after the release of the President's FY 2015 Budget. I assure you that this draft will reflect the GAO's timely recommendations – and will be better because of the GAO's input. We sincerely appreciate the GAO's efforts to help improve the effectiveness of the GLRI.

The recommendations contained in the GAO's final report, and the EPA's specific responses to each of these recommendations, are set forth below.

GAO Recommendation

To address challenges the Task Force faces in producing comprehensive and useful assessments of progress and addressing factors that may limit GLRI progress, the Environmental Protection Agency (EPA) Administrator, in coordination with the Task Force, as appropriate, should ensure progress toward long-term goals or objectives that are identified in the Action Plan, but which do not have measures that link to them, is assessed.

EPA Response

The EPA agrees with this recommendation. The agency is currently taking steps to improve our assessment of GLRI progress on long-term goals and objectives which are not linked to a specific measure or measures. We will report progress toward all Action Plan long-term goals and objectives in our FY 2014 GLRI Report to Congress and the President. In addition, as we draft the FY 2015 - 2019 GLRI Action Plan, we are developing appropriate commitments that are clearly linked to longer-term activities and goals.

GAO Recommendation

To address challenges the Task Force faces in producing comprehensive and useful assessments of progress and addressing factors that may limit GLRI progress, the EPA Administrator, in coordination with the Task Force, as appropriate, should ensure that linkages between long-term goals, objectives, and measures are identified in the Action Plan for 2015 to 2019.

EPA Response

The EPA agrees with this recommendation. As we draft the FY 2015 - 2019 GLRI Action Plan, we are developing appropriate commitments that are clearly linked to longer-term activities and goals.

GAO Recommendation

To address challenges the Task Force faces in producing comprehensive and useful assessments of progress and addressing factors that may limit GLRI progress, the EPA Administrator, in coordination with the Task Force, as appropriate, should ensure that the progress being made by projects that do not have an Action Plan measure assigned to them is captured in assessments of GLRI progress.

EPA Response

The EPA agrees with this recommendation. We are currently taking steps to improve our assessment of GLRI progress made by projects which are not linked to a specific measure or measures. We will report progress toward all Action Plan long-term goals and objectives in our FY 2014 GLRI Report to Congress and the President. In addition, as we draft the FY 2015 - 2019 GLRI Action Plan, we are developing appropriate commitments that are clearly linked to longer-term activities and goals.

GAO Recommendation

To address challenges the Task Force faces in producing comprehensive and useful assessments of progress and addressing factors that may limit GLRI progress, the EPA Administrator, in coordination

with the Task Force, as appropriate, should capture complete information about progress for each of the measures that are addressed by a project.

EPA Response

The EPA agrees with this recommendation. We are currently taking steps to improve our existing information systems to more fully capture information about progress for each of the measures that are addressed by a project.

GAO Recommendation

To address challenges the Task Force faces in producing comprehensive and useful assessments of progress and addressing factors that may limit GLRI progress, the EPA Administrator, in coordination with the Task Force, as appropriate, should further evaluate the usefulness of the current measures and targets and the need, if any, for the creation of additional measures.

EPA Response

The EPA agrees with this recommendation. We are developing appropriate measures for the FY 2015 - 2019 GLRI Action Plan, and will evaluate the usefulness of current measures in doing so.

GAO Recommendation

To address challenges the Task Force faces in producing comprehensive and useful assessments of progress and addressing factors that may limit GLRI progress, the EPA Administrator, in coordination with the Task Force, as appropriate, should establish an adaptive management plan that includes all of the key elements of adaptive management and provides details on how these elements will be implemented.

EPA Response

The EPA agrees with this recommendation. In the coming months, the GLRI agencies expect to finalize the *Adaptive Science-Based Framework for Great Lakes Restoration*, which was posted online for public comment in May 2013.

GAO Recommendation

To address challenges the Task Force faces in producing comprehensive and useful assessments of progress and addressing factors that may limit GLRI progress, the EPA Administrator, in coordination with the Task Force, as appropriate, should address how factors outside of the scope of the Action Plan that may limit progress, such as inadequate infrastructure for wastewater or stormwater and the effects of climate change, may affect GLRI efforts to restore the Great Lakes.

EPA Response

The EPA agrees with this recommendation. As we draft the FY 2015 - 2019 GLRI Action Plan, we plan to account for factors outside the scope of the Action Plan (such as the adequacy of water infrastructure and climate change) that may affect GLRI efforts to restore the Great Lakes.

We appreciate the significant effort that the GAO committed to this report and we look forward to continuing to discuss these matters with the GAO and members of Congress. If you have any further questions, please contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations, by phone at (202) 564-1859, or by email at levine.carolyn@epa.gov.

Sincerely,

A handwritten signature in cursive script, reading "Maryann Froehlich".

Maryann Froehlich
Acting Chief Financial Officer

AL-12-000-6703



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY - 3 2012

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the report entitled, *Diesel Pollution: Fragmented Federal Programs that Reduce Mobile Source Emissions Could Be Improved* (GAO-12-261). The EPA prepared this response pursuant to 31 U.S.C. 720.

Reducing emissions from diesel engines is one of the most important air quality challenges facing the country. The agency appreciates the Government Accountability Office's examination of the federal programs that provide funding for activities that reduce diesel emissions.

The agency is pleased that the report outlines and compliments the EPA's Diesel Emissions Reduction Act program's ongoing efforts to collect information on the number of diesel engines replaced, retrofitted and rebuilt as well as information on the estimated tons of particulate matter, nitrogen oxide, carbon dioxide, carbon monoxide and hydrocarbon that these projects reduce. The EPA also acknowledges that the GAO highlights the documented results that the DERA program has achieved to date. The agency continues to work to ensure that the DERA program is funding projects that achieve significant and effective reductions in diesel emissions.

This report contained two recommendations: one to the Secretary of Transportation and one, jointly, to the Secretary of Energy, the Secretary of Transportation, and the Administrator of the EPA. This letter addresses how the EPA will respond to the latter recommendation.

GAO Recommendation:

For federal funding that reduces diesel emissions, we recommend that the Secretary of Energy, the Secretary of Transportation, and the Administrator of the EPA, consistent with statutory obligations, establish a strategy for collaboration among their grant and loan programs in their activities that reduce mobile source diesel emissions. This strategy should help the agencies

- identify agency roles and responsibilities for activities that reduce diesel emissions, including how a collaborative effort will be led;
- identify and address any unnecessary duplication, as appropriate;

- identify and leverage resources needed to support funding activities that reduce diesel emissions;
- assess baseline levels of diesel pollution and the contributors to mobile source diesel emissions to help agencies target, within their discretion, investments and, as appropriate, inform efforts to measure program effectiveness; and
- develop crosscutting performance measures, as appropriate, to monitor the collective results of federal funding for activities that reduce diesel emissions.

EPA Response:

The agency believes that there should be collaboration on the diesel emission reduction activities by the staff and managers responsible for the federal grant and loan programs identified in the GAO's report to further strengthen the results achieved thus far, and to ensure that federal tax dollars are utilized in the most effective, efficient way possible. As the GAO highlights in this report, there are a number of different Federal programs which present opportunities for collaboration. Through the agency's National Clean Diesel Campaign, over the next year we will work to coordinate with other federal agencies.

Again, the agency appreciates the thoughtful consideration to federal programs that reduce diesel emissions that this report provides, and looks forward to future collaboration at the federal level to collectively lower risk from diesel exhaust exposure.

Thank you for the opportunity to respond to this recommendation. If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara J. Bennett', with a long horizontal flourish extending to the right.

Barbara J. Bennett
Chief Financial Officer

AL 12-000-6051



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 13 2012

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the Government Accountability Office report entitled, *Chemical Assessments: Challenges Remain with EPA's Integrated Risk Information System Program (GAO-12-42)*. The EPA prepared this response pursuant to 31 U.S.C. 720.

The agency appreciates the opportunity to review and comment on the GAO's final report. The GAO has provided a thorough analysis of the EPA's progress in completing IRIS Program assessments under the May 2009 process for assessment development and the challenges the EPA faces in implementing the process. The report makes a number of observations on how the EPA's IRIS Program has improved over the last two years but also identifies several areas of concern.

To improve the EPA's IRIS assessment process, GAO made the following six recommendations:

GAO Recommendation:

To better ensure the credibility of IRIS assessments by enhancing their timeliness and certainty, we recommend that the EPA Administrator require the Office of Research and Development to

- assess the feasibility and appropriateness of the established time frames for each step in the IRIS assessment process and determine whether different time frames should be established, based on complexity or other criteria, for different types of IRIS assessments, and
- should different time frames be necessary, establish a written policy that clearly describes the applicability of the time frames for each type of IRIS assessment and ensures that the time frames are realistic and provide greater predictability to stakeholders.

EPA Response:

In instituting the May 2009 IRIS process, the EPA made a commitment to develop high quality assessments in a timely manner while providing opportunities for input from the public, peer reviewers, and other federal agencies. The 23-month assessment development time frame was intended to apply to the majority of assessments, recognizing that exceptionally complex assessments require lengthier time frames. The EPA will use the available program performance measures collected since the current IRIS process was established to evaluate timeframes described in the IRIS process and act accordingly, depending on the outcome of this evaluation.

GAO Recommendation:

To better ensure the credibility of IRIS assessments by enhancing their clarity and transparency, we recommend that the EPA Administrator require the Office of Research and Development to submit for independent review to an independent entity with scientific and technical credibility, such as EPA's Board of Scientific Counselors, a plan for how EPA will implement the National Academies' suggestions for improving IRIS assessments in the "roadmap for revision" presented in the National Academies' peer review report on the draft formaldehyde assessment.

EPA Response:

The EPA is committed to implementing the 2011 National Academies' recommendations. As noted in the current GAO report on IRIS, the EPA began to implement several important aspects of the recommendations soon after the release of the formaldehyde report. The EPA will fully implement the recommendations in a phased approach and will seek independent review to ensure that the agency is addressing the recommendations offered by the National Academies.

The EPA's Science Advisory Board recently announced that a new Chemical Assessment Advisory Committee is being formed¹ to provide advice to the EPA on draft IRIS Toxicological Reviews and the IRIS Program. The new standing panel will provide a mechanism for peer review with greater consistency in membership, which will better enable the panel to observe trends over time in IRIS assessments. The panel will help to ensure that the IRIS Program implements the National Academies' recommendations and provides sound scientific health assessments.

GAO Recommendation:

To ensure that current and accurate information on chemicals that EPA plans to assess through IRIS is available to IRIS users—including stakeholders such as EPA program and regional offices, other federal agencies, and the public—we recommend that the EPA Administrator direct the Office of Research and Development to

- annually publish the IRIS agenda in the *Federal Register* each fiscal year;
- indicate in published IRIS agendas which chemicals EPA is actively assessing and when EPA plans to start assessments of the other listed chemicals; and

¹ <http://www.gpo.gov/fdsys/pkg/FR-2011-11-18/pdf/2011-29916.pdf>

- update IRIS Track to display all current information on the status of assessments of chemicals on the IRIS agenda, including projected and actual start dates, and projected and actual dates for completion of steps in the IRIS process, and keep this information current.

EPA Response:

The EPA will publish an annual *Federal Register* Notice identifying the substances that the agency is actively assessing along with projections for when the EPA plans to start assessments for other listed chemicals. In 2010, the EPA published a *Federal Register* Notice announcing the list of chemicals for which assessments were underway or expected to be underway in coming years. Future *Federal Register* Notices will contain the additional information recommended by the GAO.

The EPA will improve the timeliness and accuracy of information presented on the IRIS Track website. In 2011, the agency conducted a quality review of the schedules presented in IRIS Track and made revisions as necessary. In addition, IRIS Track is now updated monthly to ensure that the information presented is current and as accurate as possible. The IRIS Program will also continue to maintain regular communication with other EPA programs and the regional offices to ensure they are apprised of all ongoing and upcoming activities.

Thank you for the opportunity to respond to this recommendation. If you have any questions, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,



Barbara J. Bennett
Chief Financial Officer

Enclosure

bar on the SAB Web site at <http://www.epa.gov/sab>.

Dated: November 14, 2011.

Vanessa T. Vu,
Director, EPA Science Advisory Board Staff
Office.

[FR Doc. 2011-29916 Filed 11-17-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2011-0038; FRL-9326-9]

Emergent Technologies, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Emergent Technologies, Inc. in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Emergent Technologies, Inc. has been awarded a contract to perform work for OPP, and access to this information will enable Emergent Technologies, Inc. to fulfill the obligations of the contract.

DATES: Emergent Technologies, Inc. will be given access to this information on or before November 23, 2011.

FOR FURTHER INFORMATION CONTACT: Mario Steadman, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 305-8338, email address: steadman.mario@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2011-0038. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

II. Contractor Requirements

Under contract number ER-W-11-025, the contractor will perform the following: The contractor will be assisting in information and records management activities to support antimicrobial reregistration activities governed by the Federal Insecticide Fungicide, and Rodenticide Act (FIFRA) as amended by the Food Quality Act (FQPA) of August 3, 1996 and the Federal Food Drug and Cosmetic Act (FFDCA).

This contract involves no subcontractors.

OPP has determined that the contracts described in this document involve work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contracts with Emergent Technologies, Inc. prohibits use of the information for any purpose not specified in these contracts; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Emergent Technologies, Inc. is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be

provided to Emergent Technologies, Inc. until the requirements in this document have been fully satisfied. Records of information provided to Emergent Technologies, Inc. will be maintained by EPA Project Officers for these contracts. All information supplied to Emergent Technologies, Inc. by EPA for use in connection with these contracts will be returned to EPA when Emergent Technologies, Inc. has completed its work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: November 9, 2011.

Oscar Morales,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2011-29785 Filed 11-17-11; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of



Dated: November 10, 2011.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2011-28778 Filed 11-17-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9491-6]

Request for Nominations of Candidates to the EPA's Science Advisory Board (SAB) Chemical Assessment Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites public nominations of scientific experts to be considered for appointment to the EPA's Science Advisory Board (SAB) Chemical Assessment Advisory Committee to provide advice through the chartered SAB regarding Toxicological Reviews of environmental chemicals available on EPA's Integrated Risk Information System (IRIS).

DATES: Nominations should be submitted in time to arrive no later than January 6, 2012.

FOR FURTHER INFORMATION CONTACT: Nominators unable to submit nominations electronically as described below may submit a paper copy to the Designated Federal Officer for the committee, Dr. Suhair Shallal, DFO by email at shallal.suhair@epa.gov or contact her by telephone at (202) 564-2057.

Background: The chartered SAB (the Board) was established in 1978 by the Environmental Research, Development and Demonstration Act (42 U.S.C. 4365) to provide independent advice to the Administrator on general scientific and technical matters underlying the Agency's policies and actions. Members of the SAB and its subcommittees constitute a distinguished body of non-EPA scientists, engineers, economists, and social scientists that are nationally and internationally-recognized experts in their respective fields from academia, industry, state, and Tribal governments, research institutes, and non-governmental organizations. Members are appointed by the EPA Administrator for a period of three years. The SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. Generally, SAB meetings are announced in the Federal Register,

conducted in public view, and provide opportunities for public input during deliberations. All the work of the SAB subcommittees is performed under the direction of the Board. The chartered Board provides strategic advice to the EPA Administrator on a variety of EPA science and research programs and reviews and approves all SAB subcommittee and panel reports. Additional information about the SAB Federal Advisory Committees may be found at <http://www.epa.gov/sab>.

EPA's Integrated Risk Information System (IRIS) is a publicly available database which contains hazard and dose-response information on hundreds of chemical substances and their potential health effects. EPA's IRIS program develops human health risk assessments (*i.e.*, Toxicological Reviews) used to inform the Agency's decisions on protecting public health. EPA is seeking SAB advice on a continuous basis as part of an effort to strengthen and streamline the process for IRIS Toxicological Review development. In response, the SAB is establishing a new subcommittee, the Chemical Assessment Advisory Committee, which will provide advice through the chartered SAB regarding the IRIS program and the development of IRIS Toxicological Reviews.

Expertise Sought: The SAB Staff Office is seeking nominations of experts to serve on the SAB Chemical Assessment Advisory Committee with knowledge in human health risk assessment and expertise in a range of disciplines including, but not limited to: *public health; epidemiology; toxicology; modeling; biostatistics; and risk assessment*. For further information, please contact Dr. Suhair Shallal, DFO, by telephone at (202) 564-2057 or by email at shallal.suhair@epa.gov.

Selection Criteria Include

- Demonstrated scientific credentials and disciplinary expertise in their own fields;
- Willingness to commit time to the committee and demonstrated ability to work constructively and effectively on committees;
- Absence of financial conflicts of interest;
- Absence of an appearance of a lack of impartiality;
- Background and experiences that would contribute to the diversity of perspectives on the committee, *e.g.*, geographic, economic, social, cultural, educational backgrounds, and professional affiliations; and
- For the committee as a whole, consideration of the collective breadth

and depth of scientific expertise; and a balance of scientific perspectives.

How to Submit Nominations: Any interested person or organization may nominate qualified persons to be considered for appointment to this advisory committee. Individuals may self-nominate. Nominations should be submitted in electronic format (preferred) following the instructions for "Nominating Experts to the Chemical Assessment Advisory Committee" provided on the SAB Web site. The form can be accessed through the "Nomination of Experts" link on the blue navigational bar on the SAB Web site at <http://www.epa.gov/sab>. To be considered, all nominations should include the information requested. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

Nominators are asked to identify the specific committee for which nominees are to be considered. The following information should be provided on the nomination form: Contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vita; and a biographical sketch of the nominee indicating current position, educational background; research activities; and recent service on other national advisory committees or national professional organizations. Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact the Designated Federal Officer for the committee, as identified above. Non-electronic submissions must follow the same format and contain the same information as the electronic form. The SAB Staff Office will acknowledge receipt of nominations.

Candidates invited to serve will be asked to submit the "Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency" (EPA Form 3110-48). This confidential form allows EPA to determine whether there is a statutory conflict between that person's public responsibilities as a Special Government Employee and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded through the "Ethics Requirements for Advisors" link on the blue navigational

AL 13-000-7769



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 15 2013

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the April 2013 Government Accountability Office report entitled, *Climate Change: Future Federal Adaptation Efforts Could Better Support Local Infrastructure Decision Makers* (GAO-13-242). The EPA prepared this response pursuant to 31 U.S.C. 720.

In its report, the GAO looks at several types of infrastructure including roads and bridges, water facilities, and the National Aeronautics and Space Administration facilities. The GAO concludes that decision makers have not systematically considered climate change in infrastructure planning for various reasons and that more immediate priorities, such as managing aging infrastructure, consume time and resources, limiting decision makers' abilities to consider and implement climate adaptation measures. The GAO also concludes that difficulties in obtaining and using information needed to understand vulnerabilities and inform adaptation decisions pose additional challenges.

The EPA generally agrees with the findings and conclusions of the report. The EPA provided informal, detailed technical comments and clarification language on the draft version of the report. Many of these comments are addressed in the final report. The agency's Office of Water works closely with state and local governments on management of water facilities and, consequently, the agency's comments provided in this letter focus on the water facility elements of the report.

The GAO has made four recommendations in this report, the first two are addressed to the Executive Director of the United States Global Change Research Program, the third is directed to the Chairman of the Council on Environmental Quality, and the fourth is addressed to the Secretary of the U.S. Department of Transportation and the Administrator of the Environmental Protection Agency. The GAO's fourth recommendation and the EPA's response follow below.

GAO Recommendation

To improve the resilience of the nation's infrastructure to climate change, the Secretary of the U.S. Department of Transportation and the Administrator of the Environmental Protection Agency should work with relevant professional associations to incorporate climate change information into design standards.

EPA Response

The EPA is fully committed to working with its federal and state partners to support local decision makers in addressing the challenges posed by a changing climate. The EPA's draft Climate Change Adaptation Plan commits the agency to strengthening the adaptive capacity of its partners through training and the provision of decision-support tools that enable them to integrate climate adaptation planning into their work. The EPA's national environmental program offices and regional offices are now developing implementation plans to provide more detail on the actions they will take to meet the agency-wide priorities contained in the EPA Climate Change Adaptation Plan. (The EPA Plan was released for public review and comment in February 2013.)

While the Clean Water Act does not provide the EPA any authority to require design standards in water facilities, a key part of the EPA's work to implement this recommendation will be continued efforts to assist in the development of facility plans that address a changing climate using tools and resources developed by the Climate Ready Water Utilities program, including the Climate Resilience Evaluation and Awareness Tool. The EPA is working with water utilities and related professional organizations to both improve and expand these resources related to climate change and to promote their wide-spread use.

The EPA is also engaged in interagency efforts to improve federal data systems related to water resources to assure that they are complete and current and to work with professional organizations to distribute this information.

The EPA would like to point out that while the basis for the GAO's recommendation concerning development of design standards related to transportation is well supported by the text of the report, the basis for the recommendation with respect to design standards for water facilities is only captured in footnote 126 on page 81:

"According to EPA officials, EPA programs generally specify performance standards—rather than design standards—for infrastructure to protect water quality. This, in turn, drives engineers' selection of infrastructure design based on a variety of factors."

The important difference between performance standards (i.e., the treatment accomplished) and design standards (i.e., the specification of specific facilities to accomplish the treatment) is not explained in the body of the report.

Should you have questions regarding our comments, please contact me or your staff may call Christina Moody, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0260.

Sincerely,



Maryann Froehlich
Acting Chief Financial Officer

AL 14-000-1840



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 25 2013

THE ADMINISTRATOR

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to support the charter renewal of the Children's Health Protection Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Children's Health Protection Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Carolyn Levine in EPA's Office of Congressional and Intergovernmental Relations at Levine.carolyn@epa.gov or (202) 564-1859.

Sincerely,

A handwritten signature in black ink, which appears to read "Gina McCarthy", is positioned below the word "Sincerely,".

Gina McCarthy

Enclosure

AL-14-000-1840



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC - 2 2013

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the August 2013 Government Accountability Office report entitled, *Pesticides: EPA Should Take Steps to Improve Its Oversight of Conditional Registrations* (GAO-13-145). The EPA prepared this response pursuant to 31 U.S.C. 720.

Overall, the EPA is pleased that the GAO final report recognizes the EPA's continuing efforts to improve the management and tracking of conditional registrations. In the report, the GAO found that the number of conditional registrations granted by the EPA was unclear, due to a variety of reasons, including:

- Limitations in the database used to track conditional registrations;
- Misclassification of the status of some conditional and unconditionally-registered pesticides in the EPA's records; and,
- Insufficient guidance, training and oversight.

In general, the EPA agrees with the GAO's findings and is already working to implement the report's recommendations. The GAO report makes three recommendations to the EPA Administrator, provided below, each followed by the agency's response.

GAO Recommendation: To improve EPA's management of the conditional registration process, the Administrator of EPA should direct the Director of the Office of Pesticide Programs to complete plans to automate data related to conditional registrations to more readily track the status of these registrations and related registrant and agency actions and identify potential problems requiring management attention.

EPA Response: The OPP's implementation plan to automate data related to conditional registration includes several key elements. The agency has developed new codes for identifying conditional registration decisions in the computerized registration tracking system: *Office of Pesticide Programs Information Network*. This tracking system is one part of a larger database consisting of modules each addressing and supporting different OPP functions. In addition, extensive changes to the EPA's network of databases will allow regulatory staff to check more easily whether there are any outstanding requests

for data on any pesticide active ingredients. These changes will prevent the need for staff to review detailed paper files supporting each pesticide registration to determine which registrations are conditional and the status of data due to the agency. The agency has provided training to its pesticides program staff on use of the new categories represented by the new conditional registration codes, and will make the training available on-line.

GAO Recommendation: To improve EPA's management of the conditional registration process, the Administrator of EPA should direct the Director of the Office of Pesticide Programs to, pending development of an automated data system for tracking the status of conditional registrations, develop guidance to ensure that product managers use a uniform methodology to track and document this information, including when data are submitted by registrants and reviewed by EPA, in the files maintained by each pesticide product manager.

EPA Response: The pesticide program is developing a standard operating procedure for staff to follow when entering data in the computerized tracking system about the statutory basis for registration decisions. This SOP, together with the new training of staff, should ensure that conditional registration decisions are properly identified in the OPPIN database going forward. We expect to complete the SOP this calendar year. On an ongoing basis, the OPP is also reviewing and updating the status of products previously approved under the conditional registration authority, as necessary.

GAO Recommendation: To improve EPA's management of the conditional registration process, the Administrator of EPA should direct the Director of the Office of Pesticide Programs to review and correct, as appropriate, Office of Pesticide Programs' (OPP) website on conditional registrations to ensure that the information presented is clear, concise, and accurate, including defining technical terms.

EPA Response: The OPP is revising its website on conditional registration to both clarify and update the information presented. We expect to complete revision of the website shortly. The website will include an outline of ongoing agency work to strengthen its conditional registration program.

We appreciate the significant effort that the GAO committed to this report and we look forward to continuing to discuss these matters with the GAO and members of Congress. If you have any further questions, please contact me or your staff may call Carolyn Levine, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,



Maryann Froehlich
Acting Chief Financial Officer



14-000-6385

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC - 2 2013

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the August 2013 Government Accountability Office report entitled, *Pesticides: EPA Should Take Steps to Improve Its Oversight of Conditional Registrations* (GAO-13-145). The EPA prepared this response pursuant to 31 U.S.C. 720.

Overall, the EPA is pleased that the GAO final report recognizes the EPA's continuing efforts to improve the management and tracking of conditional registrations. In the report, the GAO found that the number of conditional registrations granted by the EPA was unclear, due to a variety of reasons, including:

- Limitations in the database used to track conditional registrations;
- Misclassification of the status of some conditional and unconditionally-registered pesticides in the EPA's records; and,
- Insufficient guidance, training and oversight.

In general, the EPA agrees with the GAO's findings and is already working to implement the report's recommendations. The GAO report makes three recommendations to the EPA Administrator, provided below, each followed by the agency's response.

GAO Recommendation: To improve EPA's management of the conditional registration process, the Administrator of EPA should direct the Director of the Office of Pesticide Programs to complete plans to automate data related to conditional registrations to more readily track the status of these registrations and related registrant and agency actions and identify potential problems requiring management attention.

EPA Response: The OPP's implementation plan to automate data related to conditional registration includes several key elements. The agency has developed new codes for identifying conditional registration decisions in the computerized registration tracking system: *Office of Pesticide Programs Information Network*. This tracking system is one part of a larger database consisting of modules each addressing and supporting different OPP functions. In addition, extensive changes to the EPA's network of databases will allow regulatory staff to check more easily whether there are any outstanding requests

for data on any pesticide active ingredients. These changes will prevent the need for staff to review detailed paper files supporting each pesticide registration to determine which registrations are conditional and the status of data due to the agency. The agency has provided training to its pesticides program staff on use of the new categories represented by the new conditional registration codes, and will make the training available on-line.

GAO Recommendation: To improve EPA's management of the conditional registration process, the Administrator of EPA should direct the Director of the Office of Pesticide Programs to, pending development of an automated data system for tracking the status of conditional registrations, develop guidance to ensure that product managers use a uniform methodology to track and document this information, including when data are submitted by registrants and reviewed by EPA, in the files maintained by each pesticide product manager.

EPA Response: The pesticide program is developing a standard operating procedure for staff to follow when entering data in the computerized tracking system about the statutory basis for registration decisions. This SOP, together with the new training of staff, should ensure that conditional registration decisions are properly identified in the OPPIN database going forward. We expect to complete the SOP this calendar year. On an ongoing basis, the OPP is also reviewing and updating the status of products previously approved under the conditional registration authority, as necessary.

GAO Recommendation: To improve EPA's management of the conditional registration process, the Administrator of EPA should direct the Director of the Office of Pesticide Programs to review and correct, as appropriate, Office of Pesticide Programs' (OPP) website on conditional registrations to ensure that the information presented is clear, concise, and accurate, including defining technical terms.

EPA Response: The OPP is revising its website on conditional registration to both clarify and update the information presented. We expect to complete revision of the website shortly. The website will include an outline of ongoing agency work to strengthen its conditional registration program.

We appreciate the significant effort that the GAO committed to this report and we look forward to continuing to discuss these matters with the GAO and members of Congress. If you have any further questions, please contact me or your staff may call Carolyn Levine, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,



Maryann Froehlich
Acting Chief Financial Officer

AL 14-001-0696



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 18 2014

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the November 2013 Government Accountability Office report entitled, *Information Technology: Additional OMB and Agency Actions Are Needed to Achieve Portfolio Savings* (GAO-14-65). The EPA prepared this response pursuant to 31 U.S.C. 720.

This report contained recommendations to the Office of Management and Budget and to several other federal agencies, including to the Administrator of the U.S. EPA. Overall, the agency agrees with the recommendations for the EPA contained in the GAO's final report. This response addresses the recommendations directed to the EPA.

GAO Recommendation

To improve the agency's implementation of PortfolioStat, the Administrator of the Environmental Protection Agency should direct the CIO to develop a complete commodity IT baseline.

EPA Response:

The EPA agrees with this recommendation as follows:

- In the response to the draft GAO report dated September 25, 2013, the EPA pointed out that a complete commodity Information Technology baseline was provided to the Office of Management and Budget on August 31, 2012. The information was uploaded to the OMB MAX (management information database) site.
- In its final report, the GAO replied that the EPA "did not have a process in place to ensure the completeness of information in the baseline. Without appropriate controls and processes in place to confirm this, the Environmental Protection Agency cannot be assured that its data are complete." Consequently, the EPA will continue to improve its commodity IT baseline by developing processes to confirm data completeness.

GAO Recommendation

To improve the agency's implementation of PortfolioStat, in future reporting to OMB, the Administrator of the Environmental Protection Agency should direct the CIO to fully describe the following PortfolioStat action plan elements: (1) consolidate commodity IT spending under the agency CIO; (2) establish targets for commodity IT spending reductions and deadlines for meeting those targets; and (3) establish criteria for identifying wasteful, low-value, or duplicative investments.

EPA Response

(1) Consolidate commodity IT spending under the agency's Chief Information Officer:

The EPA agrees with this recommendation as follows:

- The CIO is currently reviewing the commodity IT areas and is developing a plan to move existing stand alone contracts/task orders to enterprise-wide licensing agreements, where they currently do not exist today.

(2) Establish targets for commodity IT spending reductions and deadlines for meeting those targets:

The EPA agrees with this recommendation as follows:

- The current review of commodity IT areas and subsequent plan development to move stand alone contracts/task orders to enterprise agreements is underway. This activity will yield reductions in overall commodity IT spending through efficiencies.
- Once the agency has determined baseline requirements for IT services necessary to accomplish the agency's mission, any remaining needed reduction targets can be established.

(3) Establish criteria for identifying wasteful, low-value, or duplicative investments, in future OMB reporting:

The EPA agrees with this recommendation as follows:

- For new investments, the EPA uses its governance structure to review and assess commodity IT and other investments. The agency's Quality and Information Council and its subcommittees, the Quality Technology Subcommittee and the Information Investment Subcommittee, coordinate information technology/information management and related issues.
- The EPA is restructuring the Information Investment Subcommittee to broaden its scope to include greater portfolio management rigor in Capital Planning and Investment Control, Enterprise Architecture, and PortfolioStat. This will enable the Information Investment Subcommittee to establish criteria for identifying wasteful, low-value, or duplicative investments.

GAO Recommendation

To improve the agency's implementation of PortfolioStat, the Administrator of the Environmental Protection Agency should direct the CIO to report on the agency's progress in consolidating the managed print services and strategic sourcing of end user computing to shared services as part of the OMB integrated data collection quarterly reporting until completed.

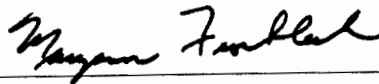
EPA Response

The EPA agrees with this recommendation as follows:

- The EPA awarded a four year contract for managed print services in April of 2013. The service covers 15 geographic locations and over 1,000 printing devices. The contract vehicle has the ability to expand and service the entire EPA enterprise over time. The managed print services contract is expected to take on additional devices and locations beginning in April 2014.
- The EPA is developing an "indefinite delivery indefinite quantity" IT contract vehicle for purchasing and leasing of end user computing equipment. The contract is expected to be awarded by March 2014.

We appreciate the significant effort that the GAO committed to this report and we look forward to continuing to discuss these matters with the GAO and members of Congress. If you have any further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations, by phone at (202) 564-0260, or by email at moody.christina@epa.gov.

Sincerely,



Maryann Froehlich
Acting Chief Financial Officer

AL 14-001-2625



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG - 4 2014

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the May 2014 Government Accountability Office report entitled, *Chemical Safety: Actions Needed to Improve Federal Oversight of Facilities with Ammonium Nitrate* (GAO-14-274). The EPA prepared this response pursuant to 31 U.S.C. 720.

In April 2013, approximately 30 tons of ammonium nitrate fertilizer detonated during a fire at a facility in West, Texas, killing 15 people and damaging nearby schools, homes, and a nursing home. This incident raised concerns about the risks posed by similar facilities across the country. The GAO was asked to examine oversight of ammonium nitrate facilities in the United States and other countries. The GAO conducted this review to address (1) how many facilities have ammonium nitrate in the United States, (2) how the Occupational Safety and Health Administration and the EPA regulate and oversee facilities that have ammonium nitrate, and (3) what approaches selected other countries have adopted for regulating and overseeing facilities with ammonium nitrate.

The EPA, particularly its Office of Solid Waste and Emergency Response, has worked closely with the GAO in providing information for this report. The agency appreciates the information and detailed feedback provided by the GAO concerning areas addressed in this audit.

Overall, the EPA generally agrees with the GAO's findings, conclusions, and recommendations in the report. The GAO report makes three recommendations. The first recommendation is made jointly to the EPA, the Departments of Homeland Security, and the Department of Labor. The second recommendation is directed to the Department of Labor, while the third is a parallel recommendation made to both the EPA and the DOL. This letter only addresses the two recommendations that include the EPA.

GAO Recommendation

To improve federal oversight of facilities with ammonium nitrate, we recommend that the Secretary of Labor, the Administrator of EPA, and the Secretary of Homeland Security, as part of their efforts as members of the Chemical Facility Safety and Security Working Group established by the Executive Order issued in August 2013, develop and implement methods of improving data sharing among federal agencies and with states.

EPA Response

The EPA agrees and, as part of the Report for the President, Actions to Improve Chemical Facility Safety and Security – A Shared Commitment, under Executive Order 13650, Improving Chemical Facility and Security, the EPA, OSHA, and the Department of Homeland Security have identified ways to improve chemical facility data sharing among federal agencies and with states. The specific actions include:

- Within 90 days of the release of the report for the President, the working group will complete the exchange of relevant data among all working group members, in accordance with existing agency and/or program policies and requirements. This action will improve understanding of the existing datasets and support efforts to identify possible noncompliant facilities.
- By the end of FY 2016, the working group will take the following steps:
 - use the EPA's Facility Registry Service as a central repository to link data from multiple agencies to assist with identifying noncompliant facilities and/or other potential compliance issues;
 - build the capability for each agency's database to share information automatically with the FRS as new facility registration information is entered, allowing each agency's database to provide updates and receive new facility records in real time; and
 - use the FRS or other systems, as appropriate, to increase information sharing from federal regulatory programs to states and local communities as well as the public while maintaining the appropriate balance between safety and security.

GAO Recommendation

To strengthen federal oversight of facilities with ammonium nitrate, we recommend that the Secretary of Labor and the Administrator of EPA direct OSHA and EPA, respectively, to consider revising their related regulations to cover ammonium nitrate and jointly develop a plan to require high-risk facilities with ammonium nitrate to assess the risks and implement safeguards to prevent accidents involving this chemical.

EPA Response

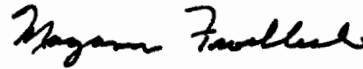
The EPA agrees and, as part of the final report for the President under Executive Order 13650, the EPA and OSHA are working together with DHS and other appropriate federal agencies, including the Department of Justice's Bureau of Alcohol, Tobacco, Firearms, and Explosives and the Department of Agriculture to identify gaps in the current regulatory structure for ammonium nitrate. As part of this effort, the EPA will determine whether the coverage provided to ammonium nitrate facilities is sufficient or whether ammonium nitrate should be included in the Risk Management Plan rule. The Risk

Management Program requires an owner or operator of a facility that manufactures, uses, stores, or otherwise handles certain listed flammable and toxic substances to develop a risk management program and submit a risk management plan for that program.

Additionally, the EPA, OSHA, and the ATF will update their guidance document, *Chemical Advisory: Safe Storage, Handling, and Management of Ammonium Nitrate*, published on August 30, 2013. This advisory, jointly prepared by the EPA, OSHA, and the ATF, outlined regulatory requirements and best practices for the storing and handling of ammonium nitrate. In the update, the agencies will consider new information resulting from the West, Texas, incident investigation; newly developed procedures and practices; new technical information; and clarifications and corrections.

If you have any further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations, by phone at (202) 564-0260, or by email at moody.christina@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Maryann Froehlich", written in a cursive style.

Maryann Froehlich
Acting Chief Financial Officer

AL 15-000-2283



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 19 2014

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the July 2014 Government Accountability Office report entitled, *EPA Should Improve Adherence to Guidance for Selected Elements of Regulatory Impact Analyses* (GAO-14-519). The EPA prepared this response pursuant to 31 U.S.C. 720.

The EPA generally agrees with the GAO's recommendations and is committed to continual improvement in the clarity of its regulatory impact analyses. However, the agency does not believe that the handful of issues identified by the GAO in its report indicate any systemic deficiencies with respect to the accuracy of the EPA's analytical work. We wish to highlight a number of areas in which we believe the report's findings and conclusions are incomplete or would benefit from a clearer and more robust consideration of context and then provide the agency's response to the GAO's recommendations.

Consistent with Executive Order 12866, the EPA develops regulatory impact analyses for all of its economically significant regulations. The RIAs are reviewed by the Office of Management and Budget, undergo an interagency review, and are then released for public notice and comment along with the proposed rulemaking before being revised for the final rule. The agency relies on the best available information to calculate both the costs and the benefits of our rules, and uses the public comment process to further refine that work. Other economists have observed that the "RIAs conducted by the EPA consistently rank at or near the top of the 17 agencies considered for all three categories of openness, analysis, and use." (See "Reflections on the Conduct and Use of Regulatory Impact Analysis at the U.S. Environmental Protection Agency", <http://www.rff.org/RFF/Documents/RFF-DP-11-17.pdf>, p.5, April 2011.) That said, the agency constantly strives to improve both the quality and the transparency of its RIAs and looks forward to building upon the GAO's feedback to further improve its work.

In its examination of a very small subset (seven) of the RIAs for the rules which the EPA has issued in recent years, the GAO found that the EPA generally adhered to OMB Circular A-4. As this was such a small sample, the GAO recognizes that the results "cannot be generalized" to the EPA's economic analyses overall. Nevertheless, the report identifies several areas, particularly the RIA executive summaries, where in the GAO's view the EPA could have been clearer, or could have achieved greater

consistency among the RIAs, or where information made available in other parts of the rulemaking package could have been more clearly reflected in the RIAs.

As a general matter, the EPA believes it is important to understand and acknowledge the real-world context in which the RIAs are conducted. Circular A-4 itself accepts that the RIAs must balance "thoroughness and practical limits of analytical capacity." Therefore, Circular A-4 affords agencies some flexibility to design analyses in ways that optimize use of limited resources while providing appropriate information about policy options. As a result, the EPA may also choose not to monetize an effect if to do so would require significant additional analytical resources but the relevant effect would likely be negligible relative to the other benefits categories that were monetized. In addition, scientific and economic methods do not yet provide all the answers needed to monetize all costs and benefits even in the face of unlimited resources.

Further, the EPA believes that certain of the GAO's findings and conclusions are incomplete or would benefit from a more robust explanation of context. We note three areas in particular.

First, the GAO's report suggests that the agency's use of the discount rates in the interagency technical support document for the social cost of carbon raised questions about the agency's adherence to Circular A-4 and about the consistency of analysis in certain RIAs. As the GAO notes, however, the OMB and the Council of Economic Advisers convened an interagency group to develop the technical support document in order to extend the guidance in Circular A-4 by developing a way for agencies to incorporate the social benefits of reducing greenhouse gases into the benefit-cost analysis of regulatory actions. Further, as the GAO also acknowledges, the OMB has explained that it regards the discount rates in the social cost of carbon technical support document as consistent with Circular A-4 and the available economic literature.

Second, the GAO's report concludes that failure to monetize some benefits in certain RIAs makes it more difficult for the public to fully understand economic trade-offs. The EPA agrees that there are challenges in completely monetizing both benefits and costs; in particular, the EPA is often unable to quantify or monetize all of the public health and environmental benefits of its regulations, including some potentially important effects. However, the report does not fully identify that (1) this is a broad problem in benefit-cost analysis which is not unique to the EPA; (2) the EPA puts significant effort into clearly indicating benefit categories for which the agency is unable to monetize benefits; (3) when it is not possible to monetize all impacts, qualitative analysis of non-monetized impacts provides the best available information to communicate to the public.

Third, the EPA believes it important to clarify certain points raised by the GAO with regard to the agency's analysis of employment impacts. In recent years, the EPA has significantly increased the amount of employment analysis in its RIAs. The EPA does not use the same approach for employment analysis for every rule; as with other analyses in our RIAs, each employment analysis is tailored to the specifics of that regulation and reflects the degree to which reliable tools and data are available to quantify impacts. Employment analysis poses broadly recognized analytical challenges, and when conducting such analysis the EPA consistently uses the best tools and data available for the relevant rulemaking. In some cases, the EPA focuses on a qualitative discussion of the employment impacts – both positive and negative – and in other cases, it quantifies selected employment impacts. As the GAO recognizes, the agency strives in all instances to transparently describe the strengths and weaknesses of the approach chosen by the agency. The EPA believes that these analyses, whether qualitative or quantitative, provide decision-makers and the public with the most reliable information available on the employment impacts of its rules and has worked hard to refine these analyses over time.

The GAO's discussion of employment impact analysis focuses on one particular study that the EPA used to quantify employment effects in two of the seven rules reviewed by the GAO. It is important to recognize that this study represented the best available peer-reviewed research at the time these RIAs were conducted, and the EPA's treatment transparently recognized the limitations of the study where it was applied. The EPA recognizes that there are limited tools provided in the peer-reviewed economics literature to quantify the small shifts in employment that might be attributable to environmental regulation. The EPA is already engaged with the academic community to seek better tools in this area and will be discussed in one of the agency responses below.

GAO Recommendations:

To improve future adherence to OMB guidance for conducting RIAs, the EPA Administrator should take the following two actions:

- enhance the agency's review process for RIAs to ensure the transparency and clarity of information presented for selected elements in and across RIAs; and
- improve the accuracy, transparency, and clarity of the information included in the executive summaries of each RIA.

EPA Response:

As noted above, the EPA stands behind the quality of RIAs that we conduct and believes the GAO findings do not point to systemic deficiencies with respect to the accuracy of our analytical work. That said, the agency supports the GAO's emphasis on the importance of transparency and clarity and will continue to strive to enhance these qualities in our RIAs. The EPA's Office of Policy, and particularly its National Center for Environmental Economics, will continue to work within the agency's existing (regulatory) Action Development Process to promote transparency and clarity in the RIAs. The EPA's December 2010 *Guidelines for Preparing Economic Analyses* describe principles for presenting the results of economic analyses, with a particular emphasis on a thorough and transparent presentation of benefits and costs, including effective presentation of effects that cannot be quantified and/or put into dollar terms. The EPA's Office of Policy, which manages the Action Development Process, will issue a memo to program offices reaffirming the importance of transparency and clarity in the RIAs, particularly the executive summary, and will work to incorporate greater emphasis of these points in the economic analysis component of the agency's (internal) Action Development Training that it conducts twice yearly.

Recommendation:

To enhance the usefulness of EPA's RIAs, the EPA Administrator should identify and prioritize for research key categories of benefits and costs that the agency cannot currently monetize that, once monetized, would most enhance the agency's ability to consider economic trade-offs associated with different regulatory alternatives.

EPA Response:

The EPA agrees with the importance of making continual improvements in valuing the benefits and costs of our regulatory actions and is constantly working to improve in these areas. The social cost of carbon represents an excellent example of a benefit that was unquantified prior to 2008, but is now included in the EPA's RIAs. The agency is currently working in other important areas of economic

valuation as well. For example, the EPA is in a long-term process of examining the factors that affect the estimated costs of regulations in a retrospective study of the costs of the agency's regulations. This could help to identify systemic differences between *ex post* and *ex ante* compliance cost estimation and, ultimately, allow for improvements in the way cost analyses are done. The agency is also in the process of seeking input from an independent expert Science Advisory Board panel on modeling economywide impacts. The EPA will continue to invest in areas that will support improvements in our ability to quantify important benefits and costs, including areas identified by the GAO such as water quality benefits and hazardous chemical impacts.

Recommendation:

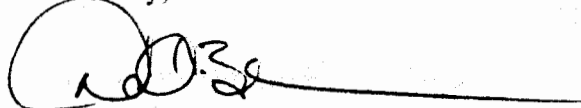
In addition, to enhance the usefulness of EPA's RIAs, the EPA Administrator should continue efforts to update and improve the agency's approach to estimating employment effects.

EPA Response:

While the EPA considers our current practices to be up to date and consistent with sound science and economics, the EPA continues to explore the relevant theoretical and empirical literature and to seek public comments on analysis of economically-significant regulations in order to ensure that the way the agency characterizes the employment effects of its regulations is valid and informative. In October 2012, the agency convened a scientific workshop with academic experts to examine the theory and methods for understanding employment effects of environmental regulation. The agency is in the process of updating its *Guidelines for Preparing Economic Analyses* to include a revised employment impacts section. Recent RIAs, including the proposed *Residential Wood Heaters New Source Performance Standard* in January 2014 and the final Tier 3 Vehicle Emission and Fuel Standards in March 2014, have used some of the updated literature review, description of theoretic models, and empirical methods for employment impact analyses that will be incorporated into the guidelines update. Finally, the EPA Science Advisory Board panel examining modeling economywide impacts will include discussion of approaches to capture employment effects.

In closing, the EPA wishes to reiterate that the agency generally agrees with the GAO's recommendations and is committed to continual improvement in the clarity of its regulatory impact analyses, while standing by the quality of its RIAs. If you have any further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations, by phone at (202) 564-0260, or by email at moody.christina@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Bloom", followed by a long horizontal line extending to the right.

David A. Bloom
Acting Chief Financial Officer



AL 12-001-4398

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 24 2012

THE ADMINISTRATOR

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to renew the charter of the Governmental Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Governmental Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The committee will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson".

Lisa P. Jackson

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

**GOVERNMENTAL ADVISORY COMMITTEE TO THE
UNITED STATES REPRESENTATIVE TO THE
NORTH AMERICAN COMMISSION FOR ENVIRONMENTAL COOPERATION**

1. Committee's Official Designation (Title):

Governmental Advisory Committee to the United States Representative to the North American Commission for Environmental Cooperation

2. Authority:

This charter renews the Governmental Advisory Committee (GAC) to the United States Representative to the Council of the Commission for Environmental Cooperation (CEC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The GAC is in the public interest and advises the U.S. Representative on implementation and elaboration of the North American Agreement on Environmental Cooperation (NAAEC). Establishment of the committee is authorized under article 18 of the NAAEC and by the North American Free Trade Agreement Implementation Act, P.L. 103-182, which authorizes U.S. participation in the CEC. Federal government responsibilities relating to the committee are set forth in Executive Order 12915, entitled "Federal Implementation of the North American Agreement on Environmental Cooperation."

3. Objectives and Scope of Activities:

The GAC will provide advice, information and recommendations on specific governmental issues. The GAC will evaluate a broad range of environment-related strategic, scientific, technological, regulatory and economic issues to be addressed in implementation and elaboration of the NAAEC.

4. Description of Committee's Duties:

The duties of the GAC are solely to provide advice to EPA.

5. Official(s) to Whom the Committee Reports:

The GAC will provide advice and recommendations and report to the Environmental Protection Agency (EPA) Administrator, who serves as the United States Representative to the Council of the CEC under the authority of Executive Order 12915.

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Federal Advisory Committee Management and Outreach, within the Office of the Administrator.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of GAC is \$166,000 which includes 0.7 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The GAC expects to meet approximately three (3) times a year. Meetings may occur approximately once every four (4) months or as needed and approved by the DFO. EPA may pay travel and per diem expenses when determined necessary and appropriate. A full-time or permanent part-time employee of EPA will be appointed as the DFO.

As required by FACA, the GAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552b of Title 5, U.S.C. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the GAC.

10. **Duration and Termination:**

This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed in accordance with Section 14 of FACA.

11. **Member Composition:**

The GAC will be composed of approximately twelve (12) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, EPA will consider candidates from State, local and tribal governments.

12. Subgroups:

EPA, or the GAC with EPA approval, may form GAC subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the GAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the U.S. Representative to the Council of the CEC.

13. Recordkeeping:

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

August 10, 2012
Agency Approval Date

AUG 24 2012
Date Filed with Congress



AL 12-001-4400

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 24 2012

THE ADMINISTRATOR

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to renew the charter of the National Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The National Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The committee will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely

A handwritten signature in black ink, appearing to read "Lisa P. Jackson".

Lisa P. Jackson

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

**NATIONAL ADVISORY COMMITTEE TO THE
UNITED STATES REPRESENTATIVE TO THE
NORTH AMERICAN COMMISSION FOR ENVIRONMENTAL COOPERATION**

1. Committee's Official Designation (Title):

National Advisory Committee to the United States Representative to the North American Commission for Environmental Cooperation

2. Authority:

This charter renews the National Advisory Committee (NAC) to the United States Representative to the Council of the Commission for Environmental Cooperation (CEC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The NAC is in the public interest and advises the U.S. Representative on implementation and elaboration of the North American Agreement on Environmental Cooperation (NAAEC). Establishment of the committee is authorized under article 17 of the NAAEC and by the North American Free Trade Agreement Implementation Act, P.L. 103-182, which authorizes U.S. participation in the CEC. Federal government responsibilities relating to the committee are set forth in Executive Order 12915, entitled "Federal Implementation of the North American Agreement on Environmental Cooperation."

3. Objectives and Scope of Activities:

The NAC will provide advice, information and recommendations on a broad range of environment-related strategic, scientific, technological, regulatory and economic issues to be addressed in implementation and elaboration of the NAAEC.

4. Description of Committee's Duties:

The duties of the NAC are solely to provide advice to EPA.

5. Official(s) to Whom the Committee Reports:

The NAC will submit advice and recommendations and report to the Environmental Protection Agency (EPA) Administrator, who serves as the United States Representative to the Council of the CEC under the authority of Executive Order 12915.

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Federal Advisory Committee Management and Outreach, within the Office of the Administrator.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of the NAC is \$166,000 which includes 0.7 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The NAC expects to meet approximately three (3) times a year. Meetings may occur approximately once every four (4) months or as needed and approved by the DFO. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the NAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552(b) of Title 5, U.S.C. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the NAC.

10. **Duration and Termination:**

This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

11. **Member Composition:**

The NAC will be composed of approximately twelve (12) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, EPA will consider candidates from the following stakeholder categories: environmental groups and non-profit entities, business and industry, and educational institutions.

12. Subgroups:

EPA, or the NAC with EPA approval, may form NAC subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the NAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the U.S. Representative to the Council of the CEC.

13. Recordkeeping:

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

August 10, 2012
Agency Approval Date

AUG 24 2012
Date Filed with Congress